

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

BARBARA LODER :
HILDEBRANDT, :
 :
Plaintiff, :
vs. : Case No. C-1-02-003
 : (Judge Beckwith)
HYATT CORPORATION, :
et al., :
 :
Defendants. :

Videotaped deposition of JOHN MICHAEL

HORNE, a witness herein, called by the plaintiff for cross-examination, pursuant to the Federal Rules of Civil Procedure, taken before me, Wendy L. Welsh, a Registered Merit Reporter and Notary Public in and for the State of Ohio, at the offices of Waite, Schneider, Bayless & Chesley, 1513 Central Trust Tower, Five West Fourth Street, Cincinnati, Ohio, on Thursday, March 21, 2002, at 9:06 AM.

EXHIBIT

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tabbles

09:08:49 1 (Plaintiff's Exhibit 1
09:08:49 2 was referenced.)
09:08:49 3 Q. I'd like to start off by showing you
09:09:02 4 Exhibit Number 1. Can you identify this exhibit?
09:09:10 5 A. Yes, I can.
09:09:11 6 Q. Okay. What is this?
09:09:13 7 A. This is basically a -- a letter from Cathy
09:09:17 8 Petz, our human resource director, basically saying
09:09:22 9 that -- in -- regards to the positions that were
09:09:23 10 being eliminated, and this is Barb's letter and the
09:09:29 11 fact that Hyatt needed to eliminate positions.
09:09:34 12 Q. Okay. Do you feel that all of the
09:09:36 13 statements in this letter are true? Take your time
09:09:40 14 and look it over.
09:09:44 15 A. Very much so.
09:09:47 16 Q. Okay. Is it true that due to the economy
09:09:51 17 Hyatt needed to eliminate Barbara's position?
09:09:54 18 A. That's correct.
09:09:56 19 Q. And is it true that she was separated from
09:09:59 20 the company through no fault of her own?
09:10:02 21 A. That's correct.
09:10:04 22 Q. And is it true that she was valuable to
09:10:06 23 the company?
09:10:07 24 A. Very much so.

09:10:12 1 Q. Okay. Thank you. Mr. Horne, did you
09:10:17 2 participate in the decision to fire Mrs.
09:10:20 3 Hildebrandt?
09:10:21 4 A. Well, with all due respect, I didn't fire
09:10:25 5 Ms. Hildebrandt. I terminated her position.
09:10:27 6 Q. Is there a difference between terminating
09:10:30 7 a person and firing them?
09:10:31 8 A. Yeah. We had a reduction in force that we
09:10:34 9 eliminated a number of positions, but certainly as a
09:10:38 10 person I did not fire Barb.
09:10:42 11 Q. Okay. Are you aware that in the reduction
09:10:44 12 in force a number of people were laid off?
09:10:47 13 A. Yes, I am.
09:10:49 14 Q. And what's a layoff?
09:10:54 15 A. A layoff? I'm not sure what the legal
09:10:58 16 definition is of a layoff but it's somebody without
09:11:01 17 employment.
09:11:03 18 Q. Well, a lay-- isn't a layoff where someone
09:11:05 19 is temporarily suspended from employment, with the
09:11:09 20 permission to return at a certain time?
09:11:12 21 MS. GALLION: I object. Asks for a legal
09:11:14 22 conclusion. If the witness has a layperson's
09:11:17 23 understanding and his own personal opinion of
09:11:19 24 what a layoff is, please answer.

09:11:22 1 A. I'll refrain from answering.
09:11:25 2 MS. GALLION: If you have an opinion about
09:11:27 3 what a layoff is, you may say.
09:11:31 4 Q. Mrs. Hildebrandt wasn't laid off, was she?
09:11:33 5 A. No. Her position was eliminated.
09:11:39 6 Q. Okay. Now, did you participate in the
09:11:41 7 decision to end her employment?
09:11:44 8 A. Yes, I did.
09:11:46 9 Q. Okay. What was your reason for ending
09:11:50 10 Mrs. Hildebrandt's employment?
09:11:53 11 A. Basically, unfortunately, the company's
09:11:58 12 demise last year financially that began in the
09:12:02 13 spring and then got worse after 9/11, we were put in
09:12:07 14 a position to reduce a number of positions and I
09:12:12 15 basically was in charge of recommending in my area.
09:12:15 16 Q. What was your reason for terminating Mrs.
09:12:19 17 Hildebrandt's employment?
09:12:20 18 A. Well, I looked at a -- a number of
09:12:23 19 positions in the national sales force where I felt
09:12:28 20 that Hyatt in the long run would not lose any
09:12:31 21 production or any revenue from customers. I tried
09:12:35 22 to analyze to the best of my ability all 67 national
09:12:41 23 sales positions and where I could reduce positions
09:12:44 24 and not impact production and customer

09:12:48 1 relationships. And I came to the conclusion or
09:12:53 2 recommendation of these ten individuals.
09:12:57 3 It should also be noted that besides
09:12:59 4 looking at the customer base, the geographic areas
09:13:03 5 that those people were in, I also looked at the mix
09:13:08 6 of business that that person handled, whether it was
09:13:12 7 individual travel or group travel. And knowing that
09:13:15 8 we were going to go to a separate strategy of group
09:13:19 9 and IT, that also came into my decisions.
09:13:23 10 So in other words, if somebody was going
09:13:25 11 to lose IT accounts to another person and could
09:13:27 12 possibly take on additional group accounts, that
09:13:31 13 went into my thinking as well when I was reducing
09:13:42 14 positions.
09:13:42 15 Q. Okay. Well, Mrs. Hildebrandt had lost her
09:13:42 16 IT accounts, hadn't she?
09:13:42 17 A. Yes, she had lost them earlier.
09:13:43 18 Q. And she could take on additional group
09:13:45 19 accounts, couldn't she?
09:13:47 20 A. She may have, yes.
09:13:49 21 Q. And was that a reason why you ended her
09:13:52 22 employment, because she could take on additional
09:13:55 23 group accounts?
09:13:55 24 A. Well, the specific reasons were I felt

09:13:57 1 that the accounts that she handled in Ohio could be
 09:14:02 2 covered by the person we had in Michigan as well as
 09:14:07 3 anybody back in Chicago.
 09:14:11 4 Q. Who was the person in Michigan?
 09:14:15 5 A. Barbara Hale.
 09:14:25 6 Q. Okay. Now, Mrs. Hildebrandt had
 09:14:30 7 tentatively booked a significant amount of
 09:14:33 8 production through the end of 2001, hadn't she?
 09:14:38 9 A. I'm not aware of that.
 09:14:40 10 Q. So you didn't look at her booked
 09:14:42 11 production when you made the decision to end her
 09:14:44 12 employment?
 09:14:45 13 A. No, I really did not.
 09:14:46 14 Q. Well, then how did you determine whether
 09:14:49 15 her employment would affect production?
 09:14:51 16 A. I basically looked at the customers and
 09:14:54 17 the geographic location of those customers that
 09:14:57 18 Barbara handled and I made the determination that
 09:15:00 19 those customers could be handled by other people in
 09:15:02 20 the national sales force.
 09:15:04 21 Q. That's true of virtually all of your
 09:15:06 22 customers, isn't it?
 09:15:08 23 A. Yes, it is.
 09:15:10 24 Q. Anyone in your national sales force can

09:15:13 1 handle customers in any geographic location, can't
 09:15:18 2 they?
 09:15:19 3 A. Yes.
 09:15:19 4 Q. Well, I don't understand what your reason
 09:15:21 5 was for terminating Mrs. Hildebrandt.
 09:15:23 6 MS. GALLION: Objection to argumentative
 09:15:25 7 nature. If you have a question, please put it.
 09:15:27 8 Stating that you don't understand the reason is
 09:15:30 9 not a question.
 09:15:31 10 You don't have to answer. There's no
 09:15:32 11 question before you.
 09:15:36 12 Q. Do you have any further reason for
 09:15:38 13 terminating Mrs. Hildebrandt?
 09:15:40 14 A. No.
 09:15:41 15 Q. None at all?
 09:15:42 16 A. No.
 09:15:49 17 Q. Was maintaining a good relationship with
 09:15:50 18 your customers a consideration you made in
 09:15:55 19 terminating Mrs. Hildebrandt?
 09:15:56 20 A. To the best of my ability, yes.
 09:15:59 21 Q. Do you feel that ending her employment
 09:16:01 22 helped to maintain a good relationship with her
 09:16:04 23 customers?
 09:16:06 24 A. Not initially, but in the long run, yes.

09:16:12 1 Q. Weren't her customers very upset about her
 09:16:15 2 being terminated?
 09:16:17 3 A. It was -- if they were, I've -- I've only
 09:16:22 4 heard of -- of one or two. I've not heard myself.
 09:16:25 5 Q. Aren't you aware they've contacted the
 09:16:27 6 company and expressed their unhappiness at her
 09:16:31 7 termination?
 09:16:31 8 A. I'm not aware of that.
 09:16:33 9 Q. Is there any other reason that you had for
 09:16:40 10 terminating Mrs. Hildebrandt, other than what you've
 09:16:43 11 already stated?
 09:16:45 12 MS. GALLION: Objection. Asked and
 09:16:46 13 answered three times. He's given you his
 09:16:48 14 reasons.
 09:16:50 15 If you have any other reasons, please say
 09:16:52 16 so.
 09:16:53 17 A. No, I don't.
 09:16:57 18 Q. Did you have any further answer to that
 09:16:59 19 question?
 09:16:59 20 A. No.
 09:17:00 21 MS. GALLION: He said no.
 09:17:09 22 Q. Did anyone else participate in the
 09:17:11 23 decision to fire Mrs. Hildebrandt?
 09:17:14 24 A. Again, with all due respect, she was not

09:17:17 1 fired. Her position was eliminated, and I made the
 09:17:22 2 recommendation and my boss approved the
 09:17:23 3 recommendations.
 09:17:24 4 Q. Who was your boss?
 09:17:25 5 A. Ty Helms.
 09:17:32 6 Q. Okay. Did you discuss any reason with
 09:17:34 7 Mr. Helms why you wanted to end Mrs. Hildebrandt's
 09:17:37 8 employment?
 09:17:37 9 A. I discussed all the reasons of all the
 09:17:40 10 reductions, yes.
 09:17:41 11 Q. All the re-- I'm sorry?
 09:17:42 12 A. With all ten people I discussed the
 09:17:45 13 reasons, yes.
 09:17:47 14 Q. Okay. With regard to Mrs. Hildebrandt did
 09:17:51 15 you discuss with Mr. Helms any reasons that you
 09:17:55 16 haven't stated here today?
 09:17:56 17 A. No, sir.
 09:17:57 18 Q. Did you have any other reasons for ending
 09:18:00 19 the employment of the other nine?
 09:18:05 20 A. No, sir.
 09:18:06 21 Q. It was all the same reason?
 09:18:08 22 A. That's correct, sir.
 09:18:09 23 Q. Did you have discussions with any Hyatt
 09:18:20 24 officials about terminating Mrs. Hildebrandt other

09:18:24 1 than Mr. Helms?
 09:18:26 2 A. No.
 09:18:26 3 Q. Okay. Why did -- did you decide it was
 09:18:42 4 necessary to terminate anyone?
 09:18:48 5 A. Basically after -- after 9/11 the
 09:18:55 6 financial situation for the company worsened
 09:18:59 7 tremendously, and I had a meeting with Ty Helms, who
 09:19:03 8 said unfortunately the cost-cutting measures that
 09:19:07 9 have taken place all year long, due to the company's
 09:19:10 10 performance, were possibly not enough and that we
 09:19:15 11 might have to go into a position of reducing bodies.
 09:19:19 12 And I was instructed to put together a plan to the
 09:19:23 13 best of my ability to do that.
 09:19:29 14 Q. When did you first give any consideration
 09:19:31 15 to terminating your employees?
 09:19:34 16 A. It was somewhere between 9/13 and 9/20.
 09:19:43 17 I'm just sorry that I don't recall the date.
 09:19:47 18 Q. Had you given any consideration to closing
 09:19:50 19 the Cincinnati office prior to that time?
 09:19:53 20 A. No, sir.
 09:19:54 21 Q. Do you recall meeting with Mr. Booth to
 09:20:13 22 inform him about these terminations?
 09:20:16 23 A. Yes, I do.
 09:20:18 24 Q. Okay. Do you recall when that was?

09:20:20 1 A. I believe I met with Brian on the 22nd of
 09:20:26 2 September to inform him there was a possibility this
 09:20:29 3 would take place, and then again on the 27th I
 09:20:34 4 informed him that these reductions were going to
 09:20:36 5 take place.
 09:20:39 6 Q. Okay. Now, was your statement to him on
 09:20:42 7 the 22nd that the reductions might take place, was
 09:20:46 8 that a truthful statement?
 09:20:48 9 A. Yes, very much so.
 09:20:50 10 Q. So Mr. Helms had not yet decided to make
 09:20:54 11 these reductions?
 09:20:55 12 A. At that point the decision had not been
 09:20:57 13 decided, yes, that's a correct statement.
 09:21:00 14 (Plaintiff's Exhibit 37
 09:21:03 15 was referenced.)
 09:21:48 16 Q. Let me show you Exhibit Number 37.
 09:21:56 17 MS. GALLION: Thank you.
 09:21:56 18 Q. Are you familiar with this document, Mr.
 09:21:57 19 Horne?
 09:21:57 20 A. No, I'm not.
 09:22:01 21 Q. You see it's a document dated
 09:22:05 22 September 20th, 2001?
 09:22:06 23 A. I -- I can see that, yes.
 09:22:08 24 Q. And it's from Mr. Helms to Mr. Miller and

09:22:18 1 Mr. Rabin. This was provided to me by Hyatt. Do
 09:22:18 2 you know who Mr. Miller is?
 09:22:18 3 A. Yes, I do.
 09:22:19 4 Q. Who is he?
 09:22:21 5 A. He's the president of Hyatt Hotels.
 09:22:24 6 Q. And who is Mr. Rabin?
 09:22:25 7 A. He's the chief operating officer, the
 09:22:34 8 number two in command of Hyatt Hotels.
 09:22:36 9 Q. Okay. And I understand that you've
 09:22:38 10 testified you haven't seen this document, but I just
 09:22:42 11 want to ask you some questions about it. Do you see
 09:22:44 12 the first sentence says "Attached is a department-
 09:22:48 13 by-department labor cost reduction plan for
 09:22:51 14 Corporate Sales"?
 09:22:52 15 A. I do see that.
 09:22:57 16 Q. Is corporate sales the area that you're
 09:22:59 17 in?
 09:22:59 18 A. I'm part of corporate sales, yes.
 09:23:05 19 Q. Okay. And then the following paragraphs
 09:23:07 20 talk about what types of cuts are to be made. And
 09:23:13 21 if you look to the next to the last paragraph, does
 09:23:22 22 it say "It goes without saying that these cuts will
 09:23:24 23 be difficult for an already lean organization that
 09:23:31 24 is trimmed substantially during the 'good times,'

09:23:34 1 but they must be taken"?
 09:23:36 2 A. I see that line.
 09:23:38 3 Q. Okay. And this is dated before you met
 09:23:40 4 with Mr. Booth, right?
 09:23:41 5 A. Yes, it is.
 09:23:42 6 Q. Did Mr. Helms tell you that they hadn't
 09:23:45 7 yet decided whether to take these cuts?
 09:23:54 8 A. When I submitted my -- my plan to him, it
 09:23:58 9 had not been decided. And again, as I stated, on
 09:24:01 10 the 26th or 27th I was told that cuts would be
 09:24:06 11 needed to be taken. So yes, there was -- there was
 09:24:09 12 no -- no direction given to me as far as cuts being
 09:24:12 13 taken until the 26th or 27th.
 09:24:17 14 Q. Do you recall what you told Mr. Booth was
 09:24:18 15 the reason for these cuts?
 09:24:20 16 A. The reason for them?
 09:24:22 17 Q. Yes.
 09:24:22 18 A. Yes. The -- the company's financial
 09:24:25 19 performance had worsened severely as of 9/11 and we
 09:24:30 20 were forced to take further cuts, not just at the
 09:24:34 21 travel and expense level.
 09:24:34 22 Q. Did you tell him that the reason for the
 09:24:38 23 terminations was to minimize the impact on -- on
 09:24:44 24 production?

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09:24:44 1 MS. GALLION: I object. That assumes
 09:24:47 2 evidence that is not real evidence and, in
 09:24:49 3 fact, there's no testimony to that effect.
 09:24:52 4 But subject to my objection, you can
 09:24:53 5 answer.
 09:24:54 6 MR. STEINBERG: Well, there was testimony
 09:24:55 7 to that effect yesterday and it's in the
 09:24:56 8 record.
 09:24:56 9 MS. GALLION: There was not testimony to
 09:24:57 10 that effect. He didn't say that that's the
 09:24:59 11 reason the cuts were made, but I don't want to
 09:25:02 12 argue.
 09:25:02 13 If you understand that question and have
 09:25:05 14 an answer, please provide it.
 09:25:06 15 A. That wasn't the answer that I gave to Mr.
 09:25:08 16 Booth.
 09:25:08 17 Q. So you didn't tell Mr. Booth that one of
 09:25:10 18 the reasons for the terminations was to minimize
 09:25:13 19 impact of production?
 09:25:15 20 A. At the time of the 26th, no, I did not.
 09:25:19 21 Q. Okay. Is that the reason you gave me
 09:25:20 22 earlier this morning?
 09:25:23 23 A. Repeat the question, please.
 09:25:25 24 Q. Was minimizing the impact of production --

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09:25:29 1 A. That's -- that is the -- when I looked at
 09:25:32 2 the national sales force and made the recommendation
 09:25:34 3 to reduce ten positions, my goal was to minimize the
 09:25:37 4 production from these customers for the company for
 09:25:40 5 the better of the company long term, yes.
 09:25:48 6 Q. Did you tell Mr. Booth that one of the
 09:25:49 7 reasons for the people you chose to eliminate was to
 09:25:54 8 still maintain good customer relations?
 09:25:57 9 A. Yes.
 09:26:00 10 Q. And did you tell him that one of the
 09:26:02 11 reasons, a third reason for choosing the people to
 09:26:07 12 eliminate was to achieve a cost savings?
 09:26:12 13 A. I can't recall if I told him that at the
 09:26:14 14 time that we made the decision.
 09:26:20 15 Q. Was achieving a cost savings a reason why
 09:26:23 16 you chose these individuals to terminate?
 09:26:25 17 A. Yes, it was.
 09:26:31 18 Q. Did you or anyone else offer Mrs.
 09:26:33 19 Hildebrandt any other position at Hyatt?
 09:26:37 20 A. No.
 09:26:39 21 Q. Why not?
 09:26:40 22 A. There was no positions available.
 09:26:46 23 Q. Why didn't you lay her off instead of
 09:26:48 24 firing her?

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09:26:50 1 A. Again --
 09:26:51 2 MS. GALLION: I object. If you know what
 09:26:52 3 the term -- I object to the use of the term
 09:26:54 4 "layoff," which is a legal term.
 09:26:56 5 But if you wish to define it as you
 09:26:58 6 understand it and answer, I have no objection.
 09:27:00 7 MR. STEINBERG: It is not a legal term.
 09:27:02 8 MS. GALLION: My objection stands.
 09:27:03 9 If you define it and then give your
 09:27:05 10 answer, if you have one, I have no objection.
 09:27:11 11 A. I -- I don't -- you know, I don't really
 09:27:14 12 understand what you mean by layoffs, but I'd be
 09:27:16 13 happy to describe why the -- why the --
 09:27:18 14 Q. Well --
 09:27:18 15 A. -- positions were reduced again.
 09:27:20 16 Q. -- do you remember that the sales managers
 09:27:23 17 in the field were laid off rather than terminated?
 09:27:26 18 A. I had nothing to -- I have no knowledge of
 09:27:28 19 that. I have nothing to do with those decisions.
 09:27:31 20 Q. You didn't learn -- you've never learned
 09:27:34 21 that the sales managers in the field were laid off?
 09:27:36 22 A. No.
 09:27:37 23 MS. GALLION: I object. There's no
 09:27:39 24 evidence in the record to that effect and, in

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09:27:40 1 fact, that is not true.
 09:27:41 2 But you may answer.
 09:27:43 3 A. No.
 09:27:44 4 MR. STEINBERG: Ms. Gallion, if you're
 09:27:46 5 going to testify, I'm going to request that the
 09:27:48 6 court reporter put you under oath so that
 09:27:51 7 there's --
 09:27:51 8 MS. GALLION: Please don't make surly,
 09:27:55 9 rude --
 09:27:51 10 MR. STEINBERG: -- a penalty of perjury.
 09:27:53 11 MS. GALLION: Please don't make rude
 09:27:55 12 comments to me. These are the same kinds of
 09:27:57 13 objections that you made during the deposition
 09:27:58 14 of your clients. You objected to evidence that
 09:28:00 15 was not in the record or to presuppositions
 09:28:03 16 that you didn't have access to, and I'm making
 09:28:05 17 the same objection, but I can affirmatively
 09:28:07 18 tell you that statement is not true. But this
 09:28:10 19 witness can answer, subject to my objection.
 09:28:18 20 BY MR. STEINBERG:
 09:28:18 21 Q. Do you have any answer to make, Mr.
 09:28:18 22 Booth -- excuse me, Mr. Horne?
 09:28:18 23 A. The answer was no.
 09:28:23 24 Q. Okay. Were you aware that by terminating

09:28:27 1 Mrs. Hildebrandt that she was forced to cash in her
09:28:33 2 matched savings plan that she had invested in for
09:28:35 3 many years?

09:28:38 4 A. I was not aware of that.

09:28:38 5 Q. And she was forced to cash it in in a
09:28:41 6 declining stock market where the value of it was
09:28:44 7 very low; you aren't aware of it?

09:28:47 8 A. I think I was aware of the stock market
09:28:49 9 situation, but I wasn't aware of Ms. Hildebrandt's
09:28:53 10 situation.

09:28:54 11 Q. Were you aware that she had to pay income
09:28:56 12 tax on top of that, on all of that savings?

09:28:58 13 A. No, I was not aware of that.

09:29:00 14 Q. Do you have any idea how much that cost
09:29:01 15 her?

09:29:01 16 A. No, I have no idea.

09:29:06 17 Q. Did you make any effort to look into the
09:29:12 18 impact that these terminations would have on your
09:29:14 19 employees?

09:29:20 20 A. You know, this -- what happened on 9/11
09:29:23 21 had a significant impact on all of us and -- and all
09:29:25 22 the employees, and this is a situation that I have
09:29:30 23 never gone through in my career, would never, ever
09:29:34 24 choose to go through again. So I think I understand

09:29:36 1 the impact it's had on the employees, the impact
09:29:39 2 it's had on me personally. It's been nothing but
09:29:42 3 tragic.

09:29:43 4 I can't even imagine what Barbara's going
09:29:45 5 through. She was a very good performer, as were all
09:29:48 6 ten of these people.

09:29:50 7 Q. You were --

09:29:50 8 A. It was a situation I --

09:29:52 9 MS. GALLION: Please don't interrupt the
09:29:52 10 witness.

09:29:53 11 A. It was a situation that I could not avoid,
09:29:56 12 unfortunately, due to the economic climate of the
09:29:58 13 company. I'm very sorry it happened.

09:30:00 14 Q. You couldn't avoid terminating Mrs.
09:30:02 15 Hildebrandt?

09:30:04 16 A. I had to make a decision on a number of
09:30:07 17 reductions in the national sales force. I chose to
09:30:09 18 choose the position that she held. I am very sorry
09:30:13 19 it happened to her, but I had to make a decision and
09:30:16 20 I tried to make the best decision for the well-being
09:30:19 21 of the company.

09:30:20 22 Q. There were many national sales managers
09:30:22 23 that retained their jobs, weren't there?

09:30:25 24 A. Certainly.

09:30:28 1 Q. The only reason she lost hers is because
09:30:31 2 you chose her to be terminated; isn't that right?

09:30:34 3 A. I made the decision to eliminate the
09:30:37 4 Cincinnati position, that's correct.

09:30:46 5 Q. Now, as I understand it, by the second
09:30:51 6 half of 2000 there were indications that the economy
09:30:55 7 was worsening; is that correct?

09:30:57 8 A. That would be a fair statement, but to add
09:31:01 9 to that, we were -- we saw that -- the economy in
09:31:04 10 the hotel business declining as early as -- as
09:31:07 11 February of 2001.

09:31:09 12 Q. And by that point you can see there was a
09:31:14 13 recession; isn't that right?

09:31:15 14 A. We could see that we were coming into
09:31:17 15 that, yes.

09:31:19 16 Q. Okay. And you knew that a recession would
09:31:21 17 hurt the hotel business?

09:31:23 18 A. Yes, I did.

09:31:25 19 Q. Did you discuss this with Mr. Helms or any
09:31:28 20 of your superiors, the impact that a recession would
09:31:33 21 have on the hotel business?

09:31:35 22 A. Did -- did I have discussions with Ty
09:31:37 23 Helms? Is that the question?

09:31:39 24 Q. Yes.

09:31:40 1 A. Yes, we talked about it.

09:31:41 2 Q. In early 2001?

09:31:43 3 A. Sure. Yes.

09:31:49 4 Q. Did you discuss the fact that there might
09:31:51 5 have to be terminations during the year of 2001?

09:31:55 6 A. Not until after 9/11.

09:31:57 7 Q. You never discussed with any Hyatt
09:32:03 8 official the possibility of employees being
09:32:06 9 terminated prior to September 11th --

09:32:10 10 A. No, sir.

09:32:22 11 Q. -- 2001? Now, despite the fact that you
09:32:24 12 could see there was a recession coming that would
09:32:27 13 hurt the hotel business, didn't you increase the
09:32:29 14 quotas of all your sales managers?

09:32:34 15 A. Well, you'd have to understand the
09:32:36 16 methodology of setting quotas, I guess, to answer
09:32:38 17 that. Quotas are set twice a year, in January and
09:32:42 18 then again in July. And we had set the quotas in
09:32:48 19 January based really on -- on coming off of the best
09:32:53 20 year ever in the year 2000 and expecting 2001 again
09:32:58 21 to be a sensational year. The quotas were set
09:33:02 22 initially in January for the first half based on
09:33:04 23 that.

09:33:09 24 Q. You did raise the quotas, didn't you, for

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09:33:12 1 2001?

09:33:13 2 A. For which period?

09:33:14 3 Q. For both periods.

09:33:16 4 A. No, the actual --

09:33:18 5 Q. Didn't you --

09:33:18 6 A. The second -- the second half quota was

09:33:20 7 lower than the first half quota for the national

09:33:23 8 sales force.

09:33:43 9 Q. Do you recall that you hired sales

09:33:44 10 managers in 2001?

09:33:45 11 A. Yes, sir, I did.

09:33:47 12 Q. In fact, you hired a substantial number of

09:33:50 13 sales managers in 2001?

09:33:52 14 MS. GALLION: Object to use of the term

09:33:54 15 "substantial."

09:33:54 16 But if the witness understands, he may

09:33:57 17 answer.

09:33:58 18 A. Is there a question there?

09:34:00 19 MS. GALLION: You may answer. You may

09:34:02 20 answer that question if you understand the use

09:34:04 21 of the term "substantial."

09:34:06 22 A. I don't understand that.

09:34:06 23 Q. Didn't you hire as many sales managers as

09:34:09 24 you eventually terminated?

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09:34:11 1 A. No, I -- I don't -- I don't believe so.

09:34:14 2 Q. Do you deny that?

09:34:16 3 MS. GALLION: The witness has answered.

09:34:18 4 He said, "No, I don't believe so." Asked and

09:34:23 5 answered.

09:34:23 6 Q. Do you deny that?

09:34:25 7 MS. GALLION: Same objection. He said,

09:34:26 8 "No, I don't believe so."

09:34:38 9 A. I don't believe so.

09:34:38 10 Q. Have you discussed the subject matter of

09:34:38 11 your testimony with anybody?

09:34:38 12 A. No. With the -- with the -- excuse me.

09:34:44 13 With the -- regarding the reduction in force? Maybe

09:34:47 14 I didn't understand the question.

09:34:49 15 Q. Your subject matter of what you might

09:34:51 16 testify to today --

09:34:51 17 A. Oh, no.

09:34:51 18 Q. -- have you discussed that with anyone?

09:34:53 19 A. No. Only with -- meeting with my counsel.

09:34:56 20 Q. Has anyone informed you what Mr. Booth

09:34:59 21 testified to yesterday?

09:35:02 22 A. Not directly as far as specific answers,

09:35:05 23 no.

09:35:06 24 Q. Has anyone told you anything about what he

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09:35:08 1 testified to yesterday?

09:35:10 2 A. Yes.

09:35:11 3 MS. GALLION: Please don't reveal any

09:35:13 4 communications from your counsel. They are all

09:35:14 5 privileged. If you did have communications

09:35:17 6 with your counsel, say so, but don't discuss

09:35:18 7 the substance of any of them.

09:35:21 8 Q. I'm asking you specifically if your

09:35:22 9 attorneys told you what Mr. Booth's testimony was

09:35:24 10 yesterday.

09:35:25 11 MS. GALLION: Please do not answer that

09:35:26 12 question.

09:35:27 13 We're absolutely privileged to discuss

09:35:28 14 with him anything in -- in preparation of his

09:35:29 15 deposition. There's no confidentiality order

09:35:32 16 or anything else precluding us from discussing

09:35:34 17 any matter with representatives of the company

09:35:36 18 and witnesses in the case.

09:35:37 19 Do not discuss any-- anything that you

09:35:40 20 discussed with us.

09:35:42 21 Q. So then you are aware of Mr. Booth's

09:35:44 22 testimony --

09:35:44 23 MS. GALLION: Do not --

09:35:44 24 Q. -- that he gave yesterday?

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09:35:46 1 MS. GALLION: Do not answer anything that

09:35:47 2 would infringe the attorney-client privilege.

09:35:49 3 And please move on to another subject,

09:35:51 4 because I'm going to have the same objection

09:35:53 5 each and every time.

09:35:55 6 Q. Do you know the substance of Mr. Booth's

09:35:57 7 testimony yesterday?

09:35:59 8 A. Just -- I'm not prepared to answer that.

09:36:04 9 Q. Are you refusing to answer the question?

09:36:06 10 MS. GALLION: He is refusing to answer the

09:36:08 11 question to the extent that it invades the

09:36:11 12 attorney-client privilege. You may ask him if

09:36:12 13 he knows from Mr. Booth about Mr. Booth's

09:36:15 14 testimony.

09:36:17 15 MR. STEINBERG: So we're clear on this one

09:36:18 16 point, the attorney-client privilege cannot be

09:36:21 17 asserted to prevent disclosure of

09:36:24 18 attorney-client communications that are in

09:36:26 19 furtherance of misconduct.

09:36:28 20 MS. GALLION: There is no misconduct.

09:36:29 21 MR. STEINBERG: And I cite --

09:36:29 22 MS. GALLION: And how offensive for you to

09:36:31 23 suggest that.

09:36:32 24 MR. STEINBERG: Excuse me. I'd cite DR

09:58:00 1 Q. Did you save some money by terminating
09:58:04 2 these people?
09:58:05 3 A. Yes, we did.
09:58:06 4 Q. What would you have saved?
09:58:09 5 A. Well, certainly we saved their -- their
09:58:12 6 salaries and we certainly saved PTEB. And then
09:58:17 7 secondary to all that, we saved some home office
09:58:20 8 cost.
09:58:20 9 Q. What is the acronym you used?
09:58:23 10 A. SOHOS?
09:58:24 11 Q. No.
09:58:24 12 MS. GALLION: PTEB.
09:58:28 13 A. PT and -- payroll, taxes, employee
09:58:29 14 benefits.
09:58:31 15 Q. Wasn't Reed Exhibition furious about your
09:58:35 16 firing D'Anna?
09:58:39 17 A. No.
09:58:39 18 Q. They didn't --
09:58:39 19 A. Furious would not be the right word, no.
09:58:42 20 Q. Didn't they tell you they were very upset
09:58:44 21 about that?
09:58:45 22 A. No, Tim McGuinness did not tell me that.
09:58:53 23 Q. Didn't you tell two of D'Anna's clients
09:58:55 24 that you did the wrong thing by terminating him?

09:59:00 1 A. I -- I don't think I said those exact
09:59:01 2 words.
09:59:02 3 Q. I'm talking about Wes Harrington and Steve
09:59:06 4 Rugers. What did you tell them?
09:59:09 5 A. I said that this was -- this was the most
09:59:14 6 challenging and difficult thing that I've ever gone
09:59:17 7 through and I hope -- I hope that I didn't make a
09:59:20 8 mistake, based on what Dean's customers' feedback
09:59:24 9 was to me, and -- and that -- that will be
09:59:28 10 determined. And I apologized to them and I just
09:59:31 11 hoped that I didn't make a mistake.
09:59:32 12 But I -- I sit here and say to you, I'm
09:59:35 13 not perfect. I'm one person. I'm in charge of a
09:59:38 14 national sales force. I made the best decisions
09:59:40 15 that Jack Horne could make for the company.
09:59:44 16 And were they perfect? No. These are ten
09:59:48 17 top performers for Hyatt for many years, many years.
10:00:01 18 I'm keenly aware of that. And I -- it was a very
10:00:01 19 difficult decision and I'm not going to sit here and
10:00:01 20 say every decision I made was the perfect, right
10:00:02 21 decision.
10:00:03 22 Q. These two customers were pretty upset,
10:00:06 23 weren't they?
10:00:07 24 A. They are. I know -- yeah, I know Wes.

10:00:10 1 Q. Did you improve any customer relations by
10:00:12 2 terminating this long-time employee D'Anna?
10:00:15 3 A. Not initially. Not initially.
10:00:20 4 Q. Why did you terminate Wendy Jensen?
10:00:26 5 A. Didn't I just -- I just answered that.
10:00:28 6 MS. GALLION: He just answered that.
10:00:30 7 Q. Just to save the money of her office?
10:00:34 8 MS. GALLION: Objection. That's not his
10:00:36 9 answer.
10:00:36 10 MR. STEINBERG: All right. I'll -- we'll
10:00:36 11 let --
10:00:36 12 MS. GALLION: It's asked and answered.
10:00:37 13 MR. STEINBERG: -- the answer stand.
10:00:37 14 MS. GALLION: And the record will say what
10:00:38 15 it says.
10:00:38 16 BY MR. STEINBERG:
10:00:38 17 Q. Is there any other reason you have for
10:00:41 18 terminating Wendy Jensen?
10:00:43 19 A. No.
10:00:44 20 Q. Was her production a reason?
10:00:45 21 A. I didn't really review the production of
10:00:47 22 these people.
10:00:48 23 Q. Didn't look at the production?
10:00:49 24 A. No.

10:01:01 1 Q. Why wouldn't you look at their production?
10:01:04 2 A. If I had to review their production, then
10:01:12 3 regretfully -- and I made decisions purely on
10:01:19 4 production, I would have had to reduce the national
10:01:21 5 sales force in large amounts in 2001. Production
10:01:25 6 was horrible because of 9/11 and the recession. I
10:01:29 7 did not want to focus on production. I wanted to
10:01:32 8 focus on the customers in those geographic locations
10:01:38 9 and what those customers meant to Hyatt long term
10:01:40 10 and in the past.
10:01:41 11 Q. So production played no role in the
10:01:43 12 decision to terminate any of these people?
10:01:46 13 A. No, it really didn't.
10:01:50 14 Q. Were you aware that Mr. D'Anna had
10:01:54 15 exceeded his six-month quota by 140 percent?
10:01:58 16 A. I am aware of that, yes. He was a great
10:02:01 17 employee.
10:02:01 18 Q. And after he exceeded that quota, you
10:02:04 19 raised his quota, didn't you?
10:02:08 20 A. I didn't -- I didn't raise his quota. His
10:02:11 21 director might have raised his quota. I don't
10:02:13 22 assign individual quotas.
10:02:16 23 Q. Do you remember him objecting to his quota
10:02:18 24 being raised and your telling him that the Reed

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10:02:22 1 Exhibition business would be booked into the new
 10:02:25 2 Hyatt Orlando Convention Center and he could handle
 10:02:28 3 that quota?
 10:02:30 4 A. I do remember that conversation, yes.
 10:02:31 5 Q. So you did discuss his quota with him?
 10:02:33 6 A. He -- he -- he brought it up to me, yes.
 10:02:42 7 Q. Let's talk about Los Angeles. Is that the
 10:02:46 8 correct --
 10:02:46 9 A. Yeah, the western national sales office.
 10:02:49 10 Q. And by the way, in New York we have two
 10:02:52 11 people that were hired in 2001 and two people that
 10:02:54 12 were terminated in 2001, right?
 10:02:58 13 MS. GALLION: Is that an -- is that a
 10:03:01 14 question?
 10:03:02 15 Q. You can answer.
 10:03:03 16 A. Was it a question?
 10:03:04 17 Q. Yes.
 10:03:05 18 A. Yes, that's correct.
 10:03:07 19 MS. GALLION: Let's take a break before we
 10:03:09 20 start a new thing.
 10:03:10 21 MR. STEINBERG: That's fine.
 10:03:10 22 MS. GALLION: We were taking a break about
 10:03:13 23 every hour, so this is a perfect time.
 10:03:17 24 (Recess taken: 10:03 a.m. - 10:19 a.m.)

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10:19:10 1 VIDEOGRAPHER: You may begin. You're on
 10:19:12 2 the record.
 10:19:13 3 BY MR. STEINBERG:
 10:19:14 4 Q. Mr. Horne, we're back from the break and
 10:19:16 5 we were going to talk about Los Angeles.
 10:19:20 6 A. Uh-huh.
 10:19:21 7 Q. Do you recall hiring Donna Palmer in 2001?
 10:19:25 8 A. Yes, I do.
 10:19:28 9 Q. Is she under 40?
 10:19:30 10 A. I don't know.
 10:19:31 11 Q. Do you know whose accounts Donna Palmer
 10:19:33 12 took over?
 10:19:34 13 A. Robin Wall.
 10:19:35 14 Q. Robin --
 10:19:37 15 A. Wall, W-A-L-L.
 10:19:40 16 Q. And how would you describe your
 10:19:42 17 relationship with Donna Palmer?
 10:19:46 18 A. Business relationship.
 10:19:47 19 Q. Have you visited her at her office?
 10:19:51 20 A. Yes, I have.
 10:19:52 21 Q. How many times?
 10:19:53 22 A. Once.
 10:20:03 23 Q. Now, as far as termination, you terminated
 10:20:05 24 Dawn Beagle?

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10:20:06 1 A. Yes, that's correct.
 10:20:10 2 Q. Do you know that Ms. Beagle is over 40?
 10:20:12 3 A. Yes, I do.
 10:20:13 4 Q. And she's been with the company a long
 10:20:15 5 time, hasn't she?
 10:20:16 6 A. I believe she has, yes.
 10:20:19 7 Q. Who received her accounts?
 10:20:30 8 A. I'm sorry?
 10:20:30 9 Q. Who -- I'm sorry. Who received her
 10:20:33 10 accounts?
 10:20:34 11 A. They were redeployed to Karina Mirkin,
 10:20:41 12 Trina London and, I believe, Jim Davis.
 10:20:50 13 Q. Now, Ms. Mirkin is under 40, isn't she?
 10:20:53 14 A. I'm not sure.
 10:20:54 15 Q. You've seen her, haven't you?
 10:20:56 16 A. I have seen her. Late 30s?
 10:20:59 17 Q. And Ms. London, she's under 40, isn't she?
 10:21:02 18 A. She is, yes.
 10:21:02 19 Q. And Mr. Davis, is he under 40?
 10:21:05 20 A. I don't know.
 10:21:07 21 Q. How would you describe your relationship
 10:21:10 22 with Ms. London?
 10:21:11 23 A. Business relationship.
 10:21:12 24 Q. Do you have any social relationship with

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10:21:14 1 her?
 10:21:14 2 A. No.
 10:21:16 3 Q. How would you describe your relationship
 10:21:18 4 with Mr. Davis?
 10:21:20 5 A. Business -- business relationship.
 10:21:21 6 Q. And with Ms. Mirkin?
 10:21:24 7 A. The same.
 10:21:26 8 Q. How often have you visited Ms. London in
 10:21:29 9 2001?
 10:21:31 10 A. I don't have a number, but several times.
 10:21:34 11 Q. How about Mr. Davis, how often have you
 10:21:37 12 visited?
 10:21:38 13 A. Several times.
 10:21:38 14 Q. Okay. And Ms. Mirkin?
 10:21:42 15 A. The same.
 10:21:42 16 Q. Now, does Ms. London work out of a
 10:21:46 17 separate office?
 10:21:46 18 A. She works out of a home office.
 10:21:48 19 Q. Home office.
 10:21:49 20 A. (Nodding head.)
 10:21:49 21 Q. And where is that located?
 10:21:52 22 A. Palo Alto.
 10:21:53 23 Q. Okay. Have you visited her in her home
 10:21:56 24 office?

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10:21:57 1 A. No, sir.
 10:21:58 2 Q. Was Jane Johnson terminated from this
 10:22:04 3 office as well?
 10:22:06 4 A. Yes. Her position was reduced in Denver.
 10:22:14 5 Q. And do you know who received her accounts?
 10:22:14 6 A. Her accounts were split between Julie
 10:22:17 7 Green out of Kansas City, Jane Johnson out of
 10:22:20 8 Houston and Mark Henry out of Chicago.
 10:22:24 9 Q. Okay.
 10:22:24 10 A. Jane Jordan. Did I say Jane Johnson?
 10:22:28 11 Jane Jordan.
 10:22:29 12 Q. Okay.
 10:22:29 13 A. Excuse me.
 10:22:29 14 Q. Is Julie Green under 40?
 10:22:32 15 A. No, she's not.
 10:22:33 16 Q. How about Jane Jordan?
 10:22:34 17 A. I don't know.
 10:22:45 18 Q. Now, I'm not going to be able to say the
 10:22:48 19 last name. Harumi?
 10:22:54 20 A. Harumi Yoshiike, yes.
 10:22:58 21 Q. Harumi Yoshiike. Okay. Has he
 10:23:00 22 retained --
 10:23:00 23 A. She.
 10:23:01 24 Q. -- or has she retained her job?

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10:23:03 1 A. Yes, she has.
 10:23:06 2 Q. And she handles business from Asia,
 10:23:09 3 doesn't she?
 10:23:10 4 A. That's correct.
 10:23:11 5 Q. Okay. Now, moving to the central office
 10:23:14 6 in Chicago.
 10:23:14 7 A. Yes.
 10:23:17 8 Q. In the year 2001, do you recall hiring
 10:23:20 9 Donna Bongiovanni?
 10:23:24 10 A. Yes, we did.
 10:23:27 11 Q. Molly Crompton, transferring her in from
 10:23:30 12 Washington?
 10:23:30 13 A. That's correct.
 10:23:31 14 Q. Inge Spindola was hired in 2001?
 10:23:34 15 A. Transferred from the Carribean office,
 10:23:36 16 yes, that's correct.
 10:23:37 17 Q. She was not national sales, was she, in
 10:23:39 18 the Carribean?
 10:23:40 19 A. She was in -- she was in the Carribean
 10:23:43 20 sales office, which is a -- you can, for lack of a
 10:23:46 21 better description, call it a miniature national
 10:23:49 22 sales office. They sell the Carribean properties.
 10:23:52 23 But it's not, the Carribean office is not part of
 10:23:55 24 the national sales force.

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10:23:56 1 Q. And Barbara Hale, was she also brought in
 10:24:00 2 in 2001?
 10:24:04 3 A. I don't believe so, no.
 10:24:05 4 Q. Don't think so? How would you describe
 10:24:12 5 your relationship with Ms. Bongiovanni?
 10:24:14 6 A. Business relationship.
 10:24:15 7 Q. Have you visited her?
 10:24:17 8 A. She's -- sits about four doors away from
 10:24:22 9 me, so yes.
 10:24:23 10 Q. So you see -- you see all these people in
 10:24:25 11 Chicago, don't you?
 10:24:26 12 A. The Chicago office is on the same floor as
 10:24:28 13 me, yes.
 10:24:29 14 Q. Okay. How would you describe your
 10:24:35 15 relationship with Molly Crompton?
 10:24:38 16 A. Business relationship.
 10:24:38 17 Q. Inge Spindola?
 10:24:39 18 A. The same.
 10:24:40 19 Q. And Barbara Hale?
 10:24:41 20 A. The same.
 10:24:46 21 Q. And out of this office who was terminated?
 10:24:52 22 A. Besides Barb.
 10:24:55 23 Q. I don't think anyone, right?
 10:24:56 24 A. No, Mary Patton's position --

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10:25:01 1 Q. Mary Patton?
 10:25:01 2 A. -- was eliminated. Yes.
 10:25:04 3 Q. Okay. Who else?
 10:25:05 4 A. That would -- those were the only two
 10:25:06 5 whose positions were eliminated.
 10:25:08 6 Q. Do you know who received Mary Patton's
 10:25:11 7 accounts?
 10:25:11 8 A. They were divided up among several people
 10:25:16 9 and I would have to defer to Mr. Booth to answer who
 10:25:18 10 got those accounts.
 10:25:24 11 Q. Now, who is Melissa Daniels?
 10:25:29 12 A. Melissa Daniels is part of the Chicago
 10:25:34 13 national sales office and she has a home office in
 10:25:36 14 Dallas, Texas.
 10:25:37 15 Q. Why did she have a home office in Dallas
 10:25:41 16 if she's part of the Chicago national sales office?
 10:25:43 17 A. Because she handles a -- well, same reason
 10:25:46 18 that many of the people have -- have satellite home
 10:25:49 19 offices. Melissa had that office and handles
 10:25:55 20 incentive companies from all over the country.
 10:26:00 21 Q. Did she start out in Dallas?
 10:26:02 22 A. No, she started in -- she started in -- in
 10:26:06 23 Michigan.
 10:26:07 24 Q. In Michigan?

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10:26:08 1 A. Yes.
10:26:08 2 Q. Why did she transfer to Dallas?
10:26:13 3 A. To -- to move back home to be near her
10:26:20 4 parents as she was, unfortunately, going through a
10:26:23 5 divorce.
10:26:23 6 Q. So it was for her convenience?
10:26:25 7 A. It was, yes.
10:26:27 8 Q. And is this a -- one of these SOHOS?
10:26:33 9 A. That's correct.
10:26:33 10 Q. And this costs Hyatt money to maintain
10:26:35 11 this office?
10:26:36 12 A. Yes, it does.
10:26:37 13 Q. Okay. How old is Melissa Daniels?
10:26:42 14 A. I don't know.
10:26:43 15 Q. Isn't she under 40?
10:26:46 16 A. Late 30s.
10:26:49 17 Q. Don't you know her?
10:26:51 18 A. Melissa?
10:26:52 19 Q. Yes.
10:26:53 20 A. Yeah, I do.
10:26:54 21 Q. Do you have a social relationship with
10:26:55 22 her?
10:26:56 23 A. No, I don't.
10:26:57 24 Q. Hasn't she been your baby-sitter?

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10:27:00 1 A. Prior to -- oh, when I lived in Dearborn,
10:27:03 2 Michigan?
10:27:03 3 Q. Yeah.
10:27:04 4 A. Prior to being in national sales? She did
10:27:08 5 baby-sit, actually. I stand corrected.
10:27:09 6 Q. Isn't she a close friend of your family?
10:27:11 7 A. Close friend, no.
10:27:13 8 Q. No?
10:27:13 9 A. No.
10:27:14 10 Q. Who's responsible for sending her to
10:27:16 11 Dallas for her convenience?
10:27:18 12 A. The -- the move had taken -- to my best
10:27:28 13 estimation, the move had taken place prior to me
10:27:30 14 taking my position. So I believe my predecessor.
10:27:35 15 Q. So you're saying you had no responsibility
10:27:37 16 for that, played no role in that?
10:27:41 17 A. I -- I -- I don't believe I did, no.
10:27:43 18 Q. How old is Molly Crompton?
10:27:50 19 A. Molly would be in her mid-30s.
10:27:52 20 Q. Do you know Inge's age?
10:27:55 21 A. I believe she's in her mid-40s.
10:27:57 22 Q. And Barbara Hale's age?
10:27:58 23 A. I would believe Barbara would be in her
10:28:03 24 mid-30s as well.

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10:28:05 1 Q. And Donna Bongiovanni, do you know her
10:28:07 2 age?
10:28:07 3 A. She would be in her 40s, I believe.
10:28:20 4 Q. Did -- well, let's go back here.
10:28:24 5 So in -- in the central office we have
10:28:28 6 three people being brought in in 2001 and two people
10:28:34 7 being terminated; is that right?
10:28:36 8 A. That's correct.
10:28:39 9 Q. Two people who were terminated had a
10:28:42 10 long-time history with the company, didn't they?
10:28:46 11 A. One of them did. Certainly Barbara. I
10:28:49 12 think that Mary was with the company for eight
10:29:01 13 years. So a little more junior.
10:29:01 14 Q. Now, two of these people that you brought
10:29:01 15 in had worked for Hyatt at one point and quit,
10:29:01 16 hadn't they?
10:29:02 17 A. That's correct.
10:29:04 18 Q. That's Inge and Donna; is that right?
10:29:07 19 A. That's -- that's correct.
10:29:10 20 Q. Excuse me.
10:29:10 21 Had Donna quit twice?
10:29:11 22 A. No, not to my recollection. I was only
10:29:14 23 aware of when she left the Hyatt Chicago, then came
10:29:17 24 back.

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10:29:21 1 Q. Okay. And hadn't Molly Crompton also
10:29:26 2 quit?
10:29:26 3 A. I think Molly did -- Molly did leave the
10:29:30 4 Hyatt employment place for a short while and came
10:29:32 5 back. You're right. Three people, actually.
10:29:41 6 Q. Okay. Now, did Molly Crompton, to your
10:29:44 7 knowledge, receive some of Mrs. Hildebrandt's
10:29:47 8 accounts?
10:29:47 9 A. Yes, she did.
10:29:49 10 Q. Do you know which ones she received?
10:29:50 11 A. The one I'm specific with is American
10:29:56 12 Contract Bridge.
10:29:58 13 Q. That's a lucrative account, isn't it?
10:30:02 14 A. Yes, it is.
10:30:03 15 Q. Did Barbara Hale receive any of Miss
10:30:05 16 Hildebrandt's accounts?
10:30:06 17 A. Yes, she did.
10:30:07 18 Q. Do you recall which ones she received?
10:30:09 19 A. I do not, no.
10:30:12 20 Q. Did Fred Reichelt receive some of Miss
10:30:15 21 Hildebrandt's accounts?
10:30:16 22 A. I believe he did.
10:30:17 23 Q. Do you know which ones?
10:30:18 24 A. No, sir.

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10:39:27 1 Terri's. I'm not knowledgeable on Mary's accounts.
 10:39:32 2 Q. Okay. And then didn't Molly Crompton
 10:39:36 3 exceed her quota last year by some astronomical
 10:39:40 4 number?
 10:39:40 5 A. She did pretty well as I recall, yes.
 10:39:43 6 Q. Do you recall what that number was?
 10:39:44 7 A. No, I don't.
 10:39:45 8 Q. And that was due to the business that came
 10:39:48 9 in on all these accounts she inherited, wasn't it?
 10:39:51 10 A. Large amount of it was due to her business
 10:39:53 11 that she cultivated and received from Terri's
 10:39:57 12 accounts. And as we're talking about, the Contract
 10:40:01 13 Bridge obviously brought her a million three and I'm
 10:40:03 14 not sure about all the others. I'd have to defer to
 10:40:06 15 Brian for exactly what she produced.
 10:40:20 16 Q. Who helped you, if anyone, in making the
 10:40:23 17 decisions on which people to terminate?
 10:40:26 18 A. I made those decisions on my own accord.
 10:40:34 19 Nobody -- nobody helped me.
 10:40:35 20 Q. Did you consult anyone?
 10:40:36 21 A. Well, I -- once I draw up my -- drew up my
 10:40:38 22 plan, I basically gave it to my boss, Ty Helms, to
 10:40:42 23 review. I will -- I will state for the record that
 10:40:46 24 I did call Gus Vonderheide. He -- the Omaha office

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10:40:50 1 was the one office where I did receive input from
 10:40:54 2 the director as to recommendations for the
 10:40:59 3 reduction.
 10:40:59 4 Q. Did you consult any attorneys?
 10:41:01 5 A. No.
 10:41:03 6 Q. So no attorneys reviewed these decisions
 10:41:05 7 at all?
 10:41:07 8 MS. GALLION: Objection.
 10:41:08 9 A. Well, not --
 10:41:09 10 MS. GALLION: The witness said he didn't
 10:41:11 11 consult any attorneys.
 10:41:11 12 THE WITNESS: Yeah.
 10:41:13 13 MS. GALLION: Subject to my objection, you
 10:41:14 14 can answer.
 10:41:14 15 A. I don't know the answer to that question.
 10:41:17 16 Q. Was it your decision to rate people in
 10:41:21 17 categories A, B and C?
 10:41:24 18 A. Yes, it was.
 10:41:25 19 Q. How did you reach that decision?
 10:41:29 20 A. Basically I reached that several different
 10:41:34 21 ways. I looked at it from the base of the clients
 10:41:39 22 that individual handled. I looked at it from that
 10:41:42 23 person's reputation and respect from the hotels,
 10:41:45 24 from customers that would call me, would talk to me.

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10:41:49 1 I would rate it from -- I would rate them based on
 10:41:51 2 whether they were involved in training for the
 10:41:54 3 company, whether they were involved in customer
 10:41:57 4 events, initiating customer events, planning, a
 10:42:02 5 number of different areas.
 10:42:02 6 Q. But you --
 10:42:02 7 A. But, you know, it's -- I -- I just want to
 10:42:09 8 clarify. Although I rated A, B and C, to me I
 10:42:22 9 didn't have a bad performer in national sales. They
 10:42:22 10 were all very good performers. Given the choice and
 10:42:22 11 given that 9/11 never happened, I'd have 66 people
 10:42:24 12 with me today. So I just -- I -- the letters A, B
 10:42:28 13 and C don't mean that a C was a bad performer. It
 10:42:32 14 just means that it was a position I felt we could
 10:42:35 15 still cover if that position didn't exist.
 10:42:37 16 Q. But you did have quite a lot of people who
 10:42:40 17 were recent hires in comparison to people who had
 10:42:46 18 been with the company for many, many years; you did
 10:42:48 19 have that, didn't you?
 10:42:50 20 A. Yeah, but just again, most of the recent
 10:42:53 21 hires were obviously before 9/11 and those positions
 10:42:58 22 replaced people that were in those positions. You
 10:43:02 23 know, just to clarify that. But you're -- you're --
 10:43:05 24 yes, actually you're -- you are correct in making

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10:43:06 1 that statement.
 10:43:12 2 Q. Okay.
 10:43:50 3 MS. GALLION: While you're looking, let me
 10:43:51 4 just take a very short break. I'll be right
 10:43:55 5 back.
 10:44:00 6 VIDEOGRAPHER: We're off the record.
 10:44:02 7 (Discussion off the record.)
 10:48:23 8 VIDEOGRAPHER: We're on the record.
 10:48:25 9 MR. STEINBERG: All set?
 10:48:25 10 (Plaintiff's Exhibit
 10:48:25 11 38e was referenced.)
 10:48:25 12 BY MR. STEINBERG:
 10:48:26 13 Q. Okay. Mr. Horne, I'd like to show you
 10:48:27 14 what we've marked as Exhibit 38e and ask you if you
 10:48:40 15 recognize this document.
 10:48:41 16 A. Yes, I do.
 10:48:41 17 Q. Can you tell me what this is?
 10:48:43 18 A. It is a -- basically a cover sheet for Ty
 10:48:48 19 Helms, my boss, to review if we were to -- if we
 10:48:51 20 were to make reductions in force.
 10:48:55 21 Q. Is -- is this something you prepared?
 10:48:57 22 A. That's correct.
 10:48:58 23 Q. Okay. When did you prepare this?
 10:48:59 24 A. I would have prepared this, again,

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10:54:10 1 Q. Okay.
10:54:10 2 A. There were many accounts that were
10:54:12 3 returned to the field to the property level, and as
10:54:16 4 we've mentioned before, Jennifer Roman and some
10:54:20 5 existing people did take on some additional group
10:54:23 6 accounts.
10:54:24 7 Q. Okay.
10:54:24 8 A. Most certainly.
10:54:25 9 Q. Now, the -- the second portion of this
10:54:26 10 document has the title Total National Sales Force
10:54:32 11 Savings?
10:54:33 12 A. That's right.
10:54:33 13 Q. What does that refer to?
10:54:35 14 A. That refers to the amount of money that I
10:54:37 15 have saved in national sales.
10:54:41 16 Q. Does that refer to money saved through the
10:54:44 17 terminations?
10:54:43 18 A. Through the ten reductions, yes.
10:54:50 19 Q. Okay. Now, there's a \$50,000 savings in
10:54:55 20 SOHO costs?
10:54:56 21 A. Yeah, that was a -- basically me taking
10:54:59 22 \$700 a month times 12 months and coming up with an
10:55:03 23 approximate figure.
10:55:04 24 Q. Was that important, to save SOHO costs?

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10:55:08 1 A. No, it's -- it's not -- it's not
10:55:10 2 important, but I think it's something as you're --
10:55:13 3 as you're attempting to save money for the company,
10:55:15 4 I -- it was important for me to highlight.
10:55:18 5 Q. So, okay, the SOHO was not really
10:55:22 6 important in this reduction?
10:55:23 7 A. No.
10:55:24 8 Q. And then the next one is travel and
10:55:26 9 entertainment expenses. Was that important?
10:55:30 10 A. Certainly it was. This was put into
10:55:34 11 place, you know, much earlier in the year, not as a
10:55:36 12 result of 9/11. When the company started to feel
10:55:39 13 the recession, we -- we narrowed each office down by
10:55:44 14 3 percent.
10:55:44 15 Q. So these savings were already in place
10:55:48 16 before the reduction?
10:55:50 17 A. The travel and expense savings?
10:55:51 18 Q. Yes.
10:55:52 19 A. Yes. They were ongoing since May.
10:55:55 20 Q. Okay. And how did you arrive at the total
10:55:59 21 annual expense reduction of 1,200,000-plus?
10:56:03 22 A. Well, that was -- that was basically the
10:56:06 23 cost of the SOHOS, the cost of the T&E and at the
10:56:11 24 time an approximate cost of what the salaries would

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10:56:14 1 be tied to those positions.
10:56:21 2 Q. So most of this is in salary?
10:56:24 3 A. That would be correct.
10:56:25 4 Q. Did you choose to terminate people because
10:56:31 5 of their salary?
10:56:34 6 A. No, I did not.
7 (Plaintiff's Exhibit
8 38g was referenced.)
10:56:53 9 Q. Okay. To -- I'd like to show you
10:56:55 10 Exhibit 38g.
10:57:04 11 MS. GALLION: Thank you.
10:57:04 12 Q. Do you recognize this document?
10:57:05 13 A. Yes, I do.
10:57:07 14 Q. Okay. First of all, what is this?
10:57:09 15 A. This is a list, an organizational chart of
10:57:12 16 the northeast national sales office. It has
10:57:16 17 rankings by A, B and C of the individual people.
10:57:22 18 And it's a -- some specific bullet points, thought
10:57:25 19 process if we were to -- to downsize this office and
10:57:30 20 reduce these positions.
10:57:32 21 Q. Do you know who prepared this document?
10:57:34 22 A. I did.
10:57:35 23 Q. When did you prepare this?
10:57:38 24 A. Somewhere between September 13th and

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10:57:42 1 September 20th.
10:57:42 2 Q. Did anyone ask you to prepare this
10:57:51 3 document?
10:57:52 4 A. Yes.
10:57:52 5 Q. Who?
10:57:53 6 A. Ty Helms.
10:57:56 7 Q. Did he -- tell me what he said to you
10:57:59 8 about preparing this document.
10:58:01 9 A. He just asked me to put down my
10:58:05 10 recommendations for reducing the national sales
10:58:07 11 force and the positions involved and to, in my mind,
10:58:15 12 although everybody's good, to categorize an A, B and
10:58:19 13 C person.
10:58:20 14 Q. So was that Mr. Helms' idea to use the A,
10:58:23 15 B, C categories?
10:58:25 16 A. Yes, it was.
10:58:26 17 Q. All right. And did he tell you what the
10:58:29 18 definition of an A was?
10:58:30 19 A. No. No, this is my opinion.
10:58:35 20 Q. Did he tell you what the criteria to
10:58:39 21 determine who was an A was?
10:58:40 22 A. No. This was my opinion.
10:58:47 23 Q. So there is no criteria for being
10:58:51 24 denominated an A?

10:58:53 1 A. I --
 10:58:53 2 MS. GALLION: Objection.
 10:58:54 3 A. I went --
 10:58:54 4 MS. GALLION: That is --
 10:58:54 5 A. -- through that car --
 10:58:56 6 MS. GALLION: -- not the previous
 10:58:58 7 question. Rude --
 10:59:00 8 A. I --
 10:59:00 9 MS. GALLION: -- and argumentative.
 10:59:01 10 You may answer.
 10:59:02 11 A. Well, I explained earlier today that I did
 10:59:04 12 have some criteria in my mind as to what made a
 10:59:08 13 person an A. Would --
 10:59:09 14 Q. Yes. What is that criteria?
 10:59:11 15 A. That would be --
 10:59:12 16 MS. GALLION: Objection. Asked and
 10:59:14 17 answered.
 10:59:14 18 But you may certainly go ahead and expound
 10:59:17 19 again.
 10:59:18 20 A. An A player in my mind was a person that
 10:59:21 21 handled the top customers in that marketplace, that
 10:59:27 22 was -- was very well respected by the hotels in
 10:59:30 23 addition to their customers, that I might have had
 10:59:34 24 first-hand experience from customers of their -- of

10:59:39 1 their performance and their meaning to Hyatt --
 10:59:41 2 Q. Okay.
 10:59:41 3 A. -- that they might have handled customer
 10:59:43 4 events, initiated the organization of an event, if
 10:59:47 5 they participated in training for the company and
 10:59:49 6 helped to be a mentor to others and they were an
 10:59:53 7 all-around top performer more so than just
 10:59:56 8 production. That's -- that's how I defined my A.
 11:00:03 9 Q. Okay. Well, let's look at C here, Dean
 11:00:15 10 D'Anna.
 11:00:15 11 A. Yes.
 11:00:15 12 Q. Was he not respected by his customers?
 11:00:15 13 A. Dean was respected by his customers, yes.
 11:00:15 14 Q. Wasn't he well respected by his customers?
 11:00:15 15 A. Yes, he was well respected by his
 11:00:17 16 customers. Dean is a -- just to clarify again.
 11:00:21 17 Wendy and Dean are top performers. All of my people
 11:00:25 18 on my A, Bs, and Cs were top performers.
 11:00:30 19 Q. And Wen--
 11:00:30 20 A. Dean -- Dean and -- Dean and --
 11:00:30 21 Q. I'm sorry.
 11:00:31 22 A. Dean was -- Dean was ques-- you know, in
 11:00:32 23 question, he could have been the second or first top
 11:00:35 24 performer in the -- in the -- in the division, but

11:00:38 1 unfortunately when I did my analyzation I -- I --
 11:00:44 2 I -- I determined that I could cover his customers
 11:00:46 3 with the existing people.
 11:00:49 4 Q. Yeah.
 11:00:49 5 A. So he's a -- he -- yes, he's a top
 11:00:51 6 performer.
 11:00:52 7 Q. Performance or production wasn't the
 11:00:54 8 criteria, right?
 11:00:55 9 A. That's -- that's correct.
 11:00:57 10 Q. My question was whether Dean was well
 11:01:00 11 respected by his customers.
 11:01:01 12 A. Yes.
 11:01:02 13 Q. He was. And wasn't Wendy well respected
 11:01:05 14 by her customers?
 11:01:05 15 A. Yes, she was.
 11:01:07 16 Q. Okay. Now, Bonnie Weiss, is she located
 11:01:11 17 in a SOHO?
 11:01:14 18 A. She is.
 11:01:15 19 Q. Okay. Is Diane Smith located in a SOHO?
 11:01:17 20 A. She is, yes.
 11:01:19 21 Q. Marilyn Brumbaugh?
 11:01:20 22 A. Yes, she is.
 11:01:22 23 Q. Kathy Murphy is located in a SOHO?
 11:01:24 24 A. That's correct.

11:01:29 1 Q. Wasn't -- was Kathy Murphy transferred to
 11:01:33 2 Baltimore?
 11:01:34 3 A. Just recently, yes.
 11:01:35 4 Q. Was that for her convenience?
 11:01:37 5 A. Yes. Her husband was promoted.
 11:01:38 6 Q. And Michelle Nicoletti is in a SOHO?
 11:01:43 7 A. That's correct.
 11:01:43 8 Q. And then Jensen and D'Anna are also in
 11:01:47 9 SOHOS?
 11:01:48 10 A. That's correct.
 11:01:48 11 Q. So being in a SOHO wasn't the reason for
 11:01:51 12 terminating Jensen and D'Anna, was it?
 11:01:56 13 A. No.
 11:01:56 14 Q. Okay. Well, let's look at what you're
 11:01:58 15 saying under the heading National Sales Office.
 11:02:02 16 A. Uh-huh.
 11:02:07 17 Q. Don't you say that Wendy Jensen's group
 11:02:10 18 account production is the lowest in the office?
 11:02:13 19 A. That's -- I do say that. That's a fact.
 11:02:19 20 Q. Yes. But production wasn't a criteria in
 11:02:22 21 your decision?
 11:02:23 22 A. It's -- it's not to be confused with Wendy
 11:02:26 23 handled a very small group of customers in
 11:02:29 24 Connecticut and those customers were easily able to

11:11:42 1 which is 38f.
 11:12:03 2 MR. STEINBERG: Do you have them all here?
 11:12:06 3 THE REPORTER: Should be.
 11:12:08 4 MR. STEINBERG: And Counsel should have a
 11:12:09 5 copy of it.
 11:12:11 6 MS. GALLION: Which one is this?
 11:12:13 7 MR. STEINBERG: It's the central sales
 11:12:14 8 office.
 11:12:15 9 MS. GALLION: Okay.
 11:12:15 10 Q. Here it is, Mr. Horne.
 11:12:20 11 A. Thank you.
 11:12:20 12 Q. Just ask that you could give it back to
 11:12:22 13 the court reporter when you're finished.
 11:12:22 14 Is this also a document that you prepared?
 11:12:26 15 A. Yes, sir, it is.
 11:12:30 16 Q. Okay. And here again, information is
 11:12:32 17 blacked out on this document. Do you know why?
 11:12:35 18 A. No, I don't.
 11:12:38 19 Q. Okay. And there is handwriting here.
 11:12:43 20 Next to Barbara Loder it says "Cincinnati SOHO." Do
 11:12:47 21 you know who wrote that?
 11:12:49 22 A. No, I don't.
 11:12:50 23 Q. Next to Mary Patton it says "Most jr. with
 11:12:54 24 Hyatt." Do you know who wrote that?

11:12:55 1 A. No, I don't.
 11:12:57 2 Q. And next to Loretta Venezia it says "IT
 11:13:04 3 Chicago." And do you know who wrote that?
 11:13:06 4 A. No, I don't.
 11:13:07 5 Q. Do you know what "most junior with Hyatt"
 11:13:12 6 means with respect to Mary Patton?
 11:13:14 7 A. It means in terms of experience the -- the
 11:13:16 8 least amount of years with Hyatt.
 11:13:19 9 Q. Compared to who?
 11:13:21 10 A. Compared to everyone else in the Chicago
 11:13:24 11 national sales office.
 11:13:34 12 Q. Okay. So that would be compared to Donna
 11:13:34 13 Bongiovanni?
 11:13:34 14 A. That's correct.
 11:13:36 15 Q. Molly Crompton?
 11:13:37 16 A. That's correct.
 11:13:39 17 Q. Barbara Hale?
 11:13:40 18 A. That's correct.
 11:13:41 19 Q. Melissa Daniels?
 11:13:43 20 A. That's correct.
 11:13:43 21 Q. And Inge Spindola?
 11:13:45 22 A. That's correct.
 11:13:47 23 Q. Was her lack of seniority with Hyatt a
 11:13:51 24 reason why she was terminated?

11:13:55 1 A. Yes. Yes, it was. It was a very
 11:13:58 2 difficult process in trying to reduce positions in
 11:14:03 3 the central office because most -- most of the
 11:14:09 4 individuals there handled a -- a variety of accounts
 11:14:14 5 that were all very, very productive for the company.
 11:14:19 6 And therefore I went with that -- that criteria as
 11:14:23 7 the recommendation. And I knew that her accounts
 11:14:25 8 could be handled by a number of other people where a
 11:14:28 9 lot of relationships already existed, especially
 11:14:30 10 Mark and Donna.
 11:14:31 11 Q. So seniority was an important
 11:14:34 12 consideration in these terminations?
 11:14:37 13 A. With the specific individual of Mary
 11:14:39 14 Patton I did use that as criteria.
 11:14:42 15 Q. Did you consider that criteria with
 11:14:44 16 Barbara Loder?
 11:14:46 17 A. No, I did not.
 11:14:47 18 Q. Did you consider that criteria with
 11:14:50 19 Loretta Venezia?
 11:14:52 20 A. No, I did not.
 11:14:54 21 Q. Is Mary Patton over 40?
 11:14:57 22 A. No, she's not.
 11:15:01 23 Q. Now, at the top of the page under the
 11:15:06 24 heading Central Sales Office you've written that

11:15:10 1 "Barbara Hale, out of Dearborn would pick up
 11:15:13 2 accounts handled by Barbara Loder?"
 11:15:15 3 A. I did write that, yes.
 11:15:16 4 Q. And what was your reason for giving her
 11:15:19 5 those accounts?
 11:15:20 6 A. Well, I -- I felt that Barbara was
 11:15:25 7 heavily, heavily weighted in the corporate arena.
 11:15:28 8 And while the big three automotive companies are
 11:15:31 9 certainly some of the biggest -- of Hyatt's largest
 11:15:37 10 companies year in and year out, I was trying to
 11:15:39 11 diversify her account base and thought she could
 11:15:41 12 pick up some association accounts in Ohio so -- so
 11:15:44 13 that she would be more balanced during unfortunate
 11:15:50 14 recession times.
 11:15:50 15 Q. So this would help her out?
 11:15:52 16 A. It would help her diversify her account
 11:15:55 17 load when the automotive market was down.
 11:15:57 18 Q. It would help increase her production,
 11:15:59 19 wouldn't it?
 11:15:59 20 A. It would maintain the company's production
 11:16:02 21 from these accounts.
 11:16:07 22 Q. It would maintain the company's production
 11:16:10 23 on these accounts to retain Barbara Loder, wouldn't
 11:16:13 24 it?

11:16:14 1 A. If I had that option, I would have taken
11:16:15 2 it.
11:16:18 3 Q. You had -- who told you you had no option
11:16:22 4 but to terminate Barbara Loder?
11:16:26 5 A. Well, I guess I told myself that, but I
11:16:29 6 had to reduce positions and -- and again going back
11:16:34 7 to the -- the -- the main reason why I did it, I
11:16:37 8 found that we could redistribute Barb's accounts and
11:16:41 9 handle them just as effectively, in my opinion.
11:16:45 10 Q. Now, you also reference in the next bullet
11:16:51 11 point that Mark will be losing two accounts. Is
11:16:56 12 that Mark Henry?
11:16:58 13 A. That's right.
11:17:00 14 Q. So you're going to give him some of Mary
11:17:03 15 Patton's accounts?
11:17:04 16 A. I'm not sure what Brian ended up giving
11:17:07 17 Mark, because we did -- we did give Mark the
11:17:10 18 Conferon account out of Denver when we lost -- when
11:17:14 19 we -- when we didn't have Jane Johnson's position
11:17:17 20 anymore. So he did pick up -- he did pick up
11:17:19 21 accounts. I'm not sure which ones of Mary's he
11:17:22 22 picked up.
11:17:25 23 Q. But at the time you wrote this, that was
11:17:28 24 your intention, wasn't it?

11:18:43 1 MS. GALLION: Objection. There's no --
11:18:44 2 A. I --
11:18:44 3 MS. GALLION: -- record evidence that
11:18:45 4 she's been with the company 23 years.
11:18:47 5 Subject to that, you may testify.
11:18:49 6 A. I -- I think we have to be careful here to
11:18:51 7 talk about these positions that were hired in 2001
11:18:55 8 and connected to the reduction in force. Because in
11:18:57 9 my mind it would have made no sense for a -- for a
11:19:00 10 Molly Crompton or an Inge Spindola to introduce
11:19:03 11 themselves to a whole new set of customers that were
11:19:06 12 once known by Terri Williams and Brian Cassidy and
11:19:09 13 then three months later, four months later,
11:19:12 14 reintroduce those customers to a third person. I
11:19:14 15 just don't think that would have been smart at all.
11:19:17 16 Q. Well, weren't Miss Hildebrandt's customers
11:19:20 17 all reintroduced to a third person?
11:19:21 18 A. No, they were introduced to a second
11:19:36 19 person. Her position was reduced and they were
11:19:36 20 either introduced to a Molly, a Barb Hale. But
11:19:36 21 we're talking about these other people that you're
11:19:37 22 referring to that I've hired in 2001. A customer
11:19:37 23 would have had a third contact in a matter of six
11:19:38 24 months and that would have not made any sense to me

11:17:29 1 A. Yeah, it was. It was my recommendation.
11:17:32 2 Q. With respect to Barbara Loder, is she in a
11:17:37 3 Cincinnati SOHO?
11:17:39 4 A. Yeah, we consider the hotel offices as --
11:17:43 5 as SOHOS, satellite offices, even though there's a
11:17:48 6 distinct difference obviously between being in your
11:17:50 7 home and being in a hotel.
11:17:52 8 Q. Well, one difference between her being in
11:17:54 9 the hotel and being in her home is it wasn't costing
11:17:57 10 you any maintenance, was it?
11:17:58 11 A. It wasn't currently, no.
11:18:02 12 Q. So what did you save by terminating her?
11:18:06 13 A. I saved her salary plus PT&B. Again, I --
11:18:17 14 and I don't mean to keep on harping on this, but
11:18:20 15 if -- if 9/11 did not happen I would have -- have
11:18:23 16 hoped to have saved all these positions. I would
11:18:26 17 have hoped I never would have been in any of this
11:18:28 18 situation, so...
11:18:30 19 Q. Well, I'm having trouble with
11:18:31 20 understanding that. I mean, how does 9/11 prevent
11:18:34 21 you from eliminating people that you just hired in
11:18:37 22 2001 instead of somebody who's been with the company
11:18:41 23 for 23 years?
11:18:41 24 A. Well, I --

11:19:40 1 at all.
11:19:44 2 Q. With regard to the customers that Mrs.
11:19:48 3 Hildebrandt was assigned to, if you had retained
11:19:54 4 her, those customers wouldn't have to be
11:19:56 5 reintroduced to anyone, would they?
11:19:58 6 A. Again, if -- if I had more options, then I
11:20:04 7 certainly would have retained more people.
11:20:07 8 Regretfully I -- I -- I didn't have those options.
11:20:10 9 Q. Well, maybe there's one thing we could
11:20:12 10 agree on and that is that Mrs. Hildebrandt clearly
11:20:15 11 was capable of handling any of these other accounts,
11:20:18 12 wasn't she?
11:20:19 13 A. You know, she was. She's a top -- she's a
11:20:23 14 top -- she was a top performer.
11:20:24 15 Q. Did you look through her prior performance
11:20:30 16 reviews before you terminated her?
11:20:31 17 A. No, I did not.
11:20:33 18 Q. Did you find out later that she had
11:20:35 19 exceeded expectations virtually every year?
11:20:38 20 A. I did hear that later, yes.
11:20:43 21 Q. Did you look at any of these other
11:20:45 22 people's performance reviews before you decided to
11:20:47 23 keep them instead of terminating them?
11:20:51 24 A. Not specifically, no, but all ten of them

11:20:54 1 were very, very good performers. And all ten of
 11:20:58 2 them were probably rated exceeds expectations more
 11:21:01 3 often than not.
 11:21:02 4 Q. Well, I'm also talking about the people
 11:21:04 5 that were not terminated. Did you look through
 11:21:06 6 their performance reviews before you made the
 11:21:10 7 decision who to terminate?
 11:21:13 8 A. Do you have a -- a specific person?
 11:21:14 9 Q. Sure. Donna Bongiovanni, Molly Crompton,
 11:21:20 10 Barbara Hale, Melissa Daniels, Inge Spindola. Did
 11:21:24 11 you study their performance reviews before you
 11:21:26 12 decided to terminate Barbara Hildebrandt?
 11:21:31 13 A. No, I didn't -- I didn't study those
 11:21:34 14 individuals.
 11:21:36 15 Q. Okay. Well, I want to talk for a minute
 11:21:40 16 about some people who have been promoted under your
 11:21:43 17 jurisdiction. Brian Booth is one. You promoted
 11:21:52 18 him, didn't you?
 11:21:53 19 A. Yes, I did. I hired him.
 11:21:54 20 Q. Or you hired him from a hotel property?
 11:21:57 21 A. That's correct.
 11:21:59 22 Q. Okay. Was he groomed in some way for the
 11:22:02 23 job?
 11:22:07 24 A. I'm not sure what you mean by the word

11:22:11 1 "groomed."
 11:22:11 2 Q. Well, how about the word "positioned," was
 11:22:14 3 Brian positioned for the job?
 11:22:15 4 A. He was -- he was qualified for the job.
 11:22:19 5 He was qualified for the job.
 11:22:21 6 Q. Does Hyatt position or prepare people for
 11:22:23 7 promotions?
 11:22:28 8 MS. GALLION: Objection. Calls for
 11:22:30 9 speculation.
 11:22:30 10 If the witness knows or has personal
 11:22:32 11 knowledge, please answer.
 11:22:33 12 A. Yeah, I can't -- I can't comment on the
 11:22:39 13 company's position. I try to prepare individuals
 11:22:40 14 for certain jobs to the best that I can.
 11:22:42 15 Q. And are you yourself being prepared or
 11:22:45 16 positioned for a promotion?
 11:22:47 17 A. Not that I know of.
 11:22:49 18 Q. Okay.
 11:22:49 19 A. I hope so, though.
 11:22:52 20 MR. STEINBERG: The videographer tells me
 11:22:54 21 we only have a few minutes left on the tape so
 11:22:56 22 I'll have to take a break here.
 11:22:58 23 THE WITNESS: Okay.
 11:23:02 24 MR. STEINBERG: So we can take a break.

11:23:03 1 VIDEOGRAPHER: We're off.
 11:23:05 2 (Recess taken: 11:23 a.m. - 11:27 a.m.)
 11:27:03 3 VIDEOGRAPHER: Tape 2. You may begin.
 11:27:06 4 BY MR. STEINBERG:
 11:27:06 5 Q. Okay. Mr. Horne, we're back on the
 11:27:08 6 record.
 11:27:08 7 Earlier I had asked you some questions
 11:27:10 8 about visiting your various account managers.
 11:27:12 9 Remember that?
 11:27:13 10 A. Yes, I do.
 11:27:15 11 Q. How many times did you visit Mrs.
 11:27:17 12 Hildebrandt?
 11:27:18 13 A. I never visited Cincinnati.
 11:27:21 14 Q. Did you ever call her?
 11:27:23 15 A. I don't believe I did, no.
 11:27:24 16 Q. Let's go back to Mr. Booth. Who made the
 11:27:36 17 decision to hire Mr. Booth?
 11:27:38 18 A. I made the decision with -- along with my
 11:27:45 19 boss, Ty Helms.
 11:27:46 20 Q. Mr. Helms?
 11:27:47 21 A. Yes.
 11:27:49 22 Q. Who made the decision to consider Mr.
 11:27:53 23 Booth for employment in the national sales force?
 11:27:57 24 A. That would have been myself.

11:27:59 1 Q. And how did you first learn about Mr.
 11:28:01 2 Booth?
 11:28:03 3 A. Through a phone conversation from his
 11:28:05 4 general manager, Steve Trent.
 11:28:09 5 Q. Okay. When was that, if you can recall?
 11:28:11 6 A. It was sometime in October.
 11:28:15 7 Q. Would that be 2000?
 11:28:17 8 A. 2000 -- yeah, I'm sorry, 2000.
 11:28:20 9 Q. October 2000?
 11:28:20 10 A. Right.
 11:28:24 11 Q. Okay.
 11:28:24 12 MS. GALLION: You might want to move your
 11:28:24 13 hand.
 11:28:24 14 Q. Who made the call, you or Mr. Trent?
 11:28:27 15 A. Steve called me.
 11:28:28 16 Q. Okay. Can you tell me what you can
 11:28:30 17 remember about what he said and what you said in
 11:28:32 18 this call.
 11:28:34 19 A. Not word for word, but Steve certainly
 11:28:37 20 gave a -- a good endorsement for Brian to take the
 11:28:41 21 job. We talked about Brian working at a large, at
 11:28:45 22 the time, a very large convention hotel for us, the
 11:28:47 23 fact that much national sales business went through
 11:28:50 24 that hotel, he had a very good understanding of the

11:28:54 1 national accounts and the process in booking and
 11:28:56 2 that he was a successful director of sales and that
 11:29:01 3 he was very organized, administratively he was very,
 11:29:04 4 very sound and he thought he would be a good
 11:29:10 5 candidate for the position.
 11:29:12 6 Q. Did you follow normal business practices
 11:29:14 7 in checking him out before you made the decision to
 11:29:17 8 hire him.
 11:29:17 9 A. Well, I -- I talked to the divisional
 11:29:18 10 director of sales that oversaw that hotel and Brian
 11:29:22 11 and I talked to Brian's former general manager Paul
 11:29:34 12 Versillio, who was his general manager in St. Louis.
 11:29:34 13 Again, both, you know, gave me thumbs up on hiring
 11:29:34 14 Brian.
 11:29:35 15 Q. Did you ask Mr. Trent to see Mr. Booth's
 11:29:39 16 file?
 11:29:39 17 A. No, I did not.
 11:29:40 18 Q. Did you ask for his evaluations?
 11:29:42 19 A. No, I did not.
 11:29:44 20 Q. Isn't that a normal business practice when
 11:29:46 21 you hire someone?
 11:29:48 22 A. Not always --
 11:29:48 23 MS. GALLION: Objection.
 11:29:48 24 A. -- no.

11:29:51 1 MS. GALLION: Argumentative.
 11:29:52 2 But you can answer.
 11:29:53 3 A. No, not always.
 11:29:54 4 Q. Not always?
 11:29:54 5 A. When somebody's within Hyatt for a long
 11:29:57 6 time and you -- and you -- and you get the
 11:29:58 7 recommendation from -- from two general managers and
 11:30:01 8 divisional directors of sales and you go through an
 11:30:03 9 interview process, sometimes you make those
 11:30:06 10 determinations without looking at an evaluation.
 11:30:09 11 Q. Well, when someone is within Hyatt, that's
 11:30:11 12 really the only chance you would have to get their
 11:30:14 13 file, isn't it?
 11:30:15 14 A. Yeah, that's correct.
 11:30:16 15 Q. If someone had come from outside, you
 11:30:19 16 probably wouldn't be able to get that other
 11:30:20 17 company's file, would you?
 11:30:22 18 A. No, you probably wouldn't.
 11:30:25 19 Q. But in any event, you didn't ask Mr. Trent
 11:30:28 20 for Mr. Booth's files?
 11:30:29 21 A. I did not, no.
 11:30:30 22 Q. And did you ever learn what's in his file?
 11:30:32 23 MS. GALLION: Objection. Vague.
 11:30:34 24 If you understand, you may answer.

11:30:36 1 A. Brian has told me there were some -- some
 11:30:40 2 memos that were pretty hard-hitting to him about his
 11:30:43 3 performance.
 11:30:44 4 Q. Well, did you learn that his main problem
 11:30:48 5 has been retaining staff?
 11:30:49 6 MS. GALLION: Objection to the
 11:30:50 7 characterization of "his main problem."
 11:30:52 8 Subject to that, you may answer.
 11:30:54 9 A. Yeah, I didn't -- I didn't learn that was
 11:30:57 10 his main problem, no.
 11:30:58 11 Q. You've not learned that even today?
 11:31:00 12 A. No, I have not.
 11:31:01 13 Q. Have you learned that he had very poor
 11:31:05 14 relations with his staff and a very high turnover?
 11:31:08 15 A. No, I have not.
 11:31:09 16 MS. GALLION: I object. That's
 11:31:10 17 inconsistent with the evidence in the record.
 11:31:15 18 But subject to my objection, you may
 11:31:16 19 always answer.
 20 (Plaintiff's Exhibit
 21 31a was referenced.)
 11:31:51 22 Q. Show you Exhibit 31a. Do you recognize
 11:32:00 23 this document?
 11:32:05 24 A. Yes, I do.

11:32:04 1 Q. What is this?
 11:32:05 2 A. This is an evaluation of myself that Ty
 11:32:10 3 has given to me.
 11:32:12 4 Q. Okay. Do you remember when you received
 11:32:14 5 this evaluation?
 11:32:17 6 A. I would have received it sometime in the
 11:32:20 7 spring of 2001.
 11:32:24 8 Q. And was -- this was shared with you by Mr.
 11:32:28 9 Helms?
 11:32:28 10 A. Yes, it was.
 11:32:30 11 Q. Okay. Would you look at the third
 11:32:32 12 paragraph from the bottom, the one that begins with
 11:32:42 13 the word "Throughout."
 11:32:47 14 A. Uh-huh.
 11:32:47 15 Q. Can you read that paragraph into the
 11:32:48 16 record, please.
 11:32:50 17 A. "Throughout 2001 we will be positioning
 11:32:52 18 Jack for a promotion to Vice President. During that
 11:32:55 19 time it will be critical to give Jack extra exposure
 11:32:58 20 internally to allow him the opportunity to show what
 11:33:01 21 he can bring to the company."
 11:33:04 22 Q. Okay. You were aware of this at the time
 11:33:06 23 you received this evaluation, weren't you?
 11:33:09 24 A. Yes, I was.

11:43:17 1 had a maintenance contract with Banctec, so yes,
 11:43:18 2 there were -- there were funds that were dedicated
 11:43:20 3 to support the home offices, that's correct.
 11:43:23 4 Q. And are you still supporting them?
 11:43:25 5 A. Yes, sir.
 11:43:26 6 Q. Okay. Could you look at the fourth line
 11:43:32 7 from the bottom.
 11:43:32 8 A. Em-hmm.
 11:43:33 9 Q. It says "Create one system within the
 11:43:35 10 NSF: securing contacts only within national
 11:43:42 11 accounts." Can you tell me what you were referring
 11:43:44 12 to by that?
 11:43:45 13 A. Sure. When I took over national sales,
 11:43:49 14 the way -- the way the -- the system worked is you
 11:43:52 15 would secure the organization as a national customer
 11:43:57 16 account. And then you would secure different
 11:44:00 17 contacts within that organization. That would be
 11:44:03 18 national contacts.
 11:44:05 19 However, we also went a step further. We
 11:44:07 20 secured contacts in nonnational accounts. So the
 11:44:12 21 NSF kind of had the best of both worlds, if you
 11:44:15 22 will. We had our national cus-- national orgs.,
 11:44:18 23 which at the time a hotel could not call on in any
 11:44:24 24 of those secure contacts. And then we would go into

11:44:27 1 what I would call the field accounts and secure
 11:44:29 2 contacts in there as well, prohibiting the field to
 11:44:32 3 call on those customers.
 11:44:34 4 And I didn't think that was a -- a fair
 11:44:35 5 system. I -- I felt that the original system of --
 11:44:37 6 of securing organizations and securing contacts
 11:44:40 7 underneath those secured organizations was the only
 11:44:43 8 way we should go and we should not secure contacts
 11:44:47 9 in nonnational accounts. So I released all those --
 11:44:51 10 those secured nonnational customers.
 11:44:54 11 It doesn't mean that the national sales
 11:44:56 12 force could not work those people. I just didn't
 11:44:58 13 want them secured. Because to a hotel salesperson,
 11:45:01 14 when they would go into the sales system and see
 11:45:03 15 that X on that person, they would never call on them
 11:45:06 16 because it was a national account person working it.
 11:45:09 17 And I just didn't think it was fair for us to try to
 11:45:12 18 control both sides of the equation.
 11:45:14 19 Q. Is the idea to have one sales manager
 11:45:17 20 matched up with an account? Is that what you're
 11:45:20 21 going for here?
 11:45:21 22 A. No, not necessarily, because as I told you
 11:45:23 23 earlier, we're -- we're going -- we could have a --
 11:45:26 24 a salesperson within an -- an account like IBM and

11:45:29 1 she might work eight or nine contacts, but I also
 11:45:32 2 could have an IT salesperson working the IT contacts
 11:45:36 3 within the -- within that account. So I could have
 11:45:40 4 multiple national salespeople on an account.
 11:45:47 5 Q. So you're -- you're -- you're saying that
 11:45:49 6 your purpose here was to limit the national sales
 11:45:54 7 people from contacting the nonnational accounts?
 11:46:00 8 A. No.
 11:46:01 9 Q. No?
 11:46:01 10 A. It was -- it was to -- it was --
 11:46:04 11 Q. Hmm.
 11:46:04 12 A. -- to not let -- that's okay. I don't
 11:46:05 13 expect you to understand this. It took me a while,
 11:46:08 14 too.
 11:46:09 15 It -- it was -- the -- the purpose was to
 11:46:11 16 not let them secure contacts in nonnational
 11:46:14 17 accounts, but certainly if -- if Barb was at a trade
 11:46:19 18 show and met a customer who was not one of her
 11:46:21 19 secured contacts, she can certainly go into the
 11:46:24 20 system and put a referral in and -- and -- and get
 11:46:30 21 credit for the bookings. She could book the -- the
 11:46:32 22 contact. I was just -- from a technology standpoint
 11:46:35 23 I did not want to lock those customers off.
 11:46:37 24 Q. What does -- what does the word secure

11:46:38 1 mean in --
 11:46:38 2 A. Secure means --
 11:46:38 3 Q. -- this context?
 11:46:40 4 A. -- putting an X next to them in the
 11:46:43 5 system, for lack of a -- securing them means to put
 11:46:46 6 an X next to them and secure them to your name.
 11:46:49 7 See, I just wanted -- I wanted the
 11:46:52 8 opportunity for -- for the lady working at the Hyatt
 11:46:54 9 O'Hare to work that same contact as maybe a national
 11:46:57 10 salesperson worked.
 11:46:59 11 Q. Okay.
 11:46:59 12 A. And by securing that, you limited it to
 11:47:02 13 one person.
 11:47:02 14 Q. I think I understand.
 11:47:02 15 A. I'm sorry if I wasn't clear.
 11:47:04 16 Q. No, I understand. When you brought in
 11:47:14 17 Brian Booth did you advertise that position?
 11:47:20 18 A. You know, to the best of my ability I
 11:47:22 19 believe that I did post the position, but as I sit
 11:47:25 20 here in front of you I have nothing to produce to
 11:47:27 21 you that shows on record that I did.
 11:47:31 22 Q. Well, what is it you think you did to post
 11:47:33 23 it?
 11:47:34 24 A. Well, we -- we normally post it in several

13:18:52 1 A. Not in the New York office.
 13:18:52 2 Q. Where is she located?
 13:18:54 3 A. She was in the Chicago office.
 13:18:55 4 Q. Chicago office?
 13:18:56 5 A. Yes.
 13:18:57 6 Q. Okay. Was she physically located there?
 13:19:01 7 A. Yes, she was.
 13:19:02 8 Q. Do you recall, was she a long-time
 13:19:08 9 employee that had a good record?
 13:19:10 10 A. Yes, I believe she was.
 13:19:11 11 Q. And she was on your list to terminate,
 13:19:14 12 too, wasn't she?
 13:19:14 13 A. She was.
 13:19:15 14 Q. Okay. But did she surprise you by
 13:19:18 15 quitting?
 13:19:18 16 A. She resigned the morning of the notices,
 13:19:22 17 yes.
 13:19:22 18 Q. Do you know why she resigned?
 13:19:23 19 A. To take a job in New York as director of
 13:19:27 20 sales at the Westin Times Square I believe it's
 13:19:32 21 named.
 13:19:32 22 Q. Did she tell you why she wanted to leave
 13:19:39 23 Hyatt?
 13:19:39 24 A. No, she didn't.

13:19:40 1 Q. Were you the area supervisor, I forget the
 13:19:51 2 title, that covered the -- the hotel at McCormick
 13:19:53 3 Place?
 13:19:54 4 A. I was.
 13:19:56 5 Q. And do you know what the circumstances
 13:19:58 6 were when Molly Crompton first left McCormick Place?
 13:20:02 7 A. She resigned to go to a catering company
 13:20:08 8 in Chicago. As I recall, the hotel hours were too
 13:20:17 9 restrictive. She was working all the time and she
 13:20:19 10 wanted to go somewhere where she could work more or
 13:20:23 11 less 8:00 to 5:00 and have a -- a life outside of
 13:20:26 12 her job.
 13:20:26 13 Q. And then she came back to McCormick Place?
 13:20:28 14 A. She did.
 13:20:30 15 Q. Did you play any role in her coming back
 13:20:33 16 to McCormick Place?
 13:20:33 17 A. No, I did not.
 13:20:35 18 Q. Okay. And then at some point she left
 13:20:39 19 McCormick Place and went to the Washington national
 13:20:43 20 sales office?
 13:20:43 21 A. That's correct.
 13:20:43 22 Q. Did you have any role in her moving to the
 13:20:48 23 Washington national sales office?
 13:20:48 24 A. No, only than -- other than telling my

13:20:52 1 director there that she was a candidate, that she
 13:20:55 2 had put her name in the hat based on the open
 13:20:58 3 positions report. And he had called me and asked
 13:21:00 4 me, when she would work for me at the Hyatt O'Hare,
 13:21:04 5 was she a good employee.
 13:21:05 6 Q. Okay. And then she went from Washington
 13:21:09 7 to the central office?
 13:21:10 8 A. Right.
 13:21:11 9 Q. Did you have any role in her going to the
 13:21:13 10 central office?
 13:21:14 11 A. Yes, I did. I -- I knew that she was
 13:21:20 12 unhappy personally in Washington and she wanted --
 13:21:24 13 she made a statement that she wanted to come back.
 13:21:27 14 And when Terri resigned, I made the recommendation
 13:21:30 15 that she should come back.
 13:21:32 16 Q. Okay. How did you know she was unhappy in
 13:21:36 17 Washington?
 13:21:36 18 A. Because her director had told me that.
 13:21:38 19 Q. Okay. Now, it wasn't clear. Did you
 13:21:44 20 mention earlier that you -- you think you adjusted
 13:21:48 21 her quota upwards to account for additional accounts
 13:21:54 22 she received?
 13:21:55 23 A. I -- well, if she -- if she received an
 13:21:59 24 account that had a tentative piece of business that

13:22:01 1 was going to turn definite before the year end 2001,
 13:22:06 2 then she would get a quota adjustment upwards. If
 13:22:09 3 she received several pieces of tentative business
 13:22:12 4 that were not going to close before the end of 2001,
 13:22:15 5 she would have had no reflection of her quota
 13:22:19 6 changing.
 13:22:19 7 Q. So you're talking hypothetically here?
 13:22:21 8 A. Yes.
 13:22:22 9 Q. Okay. I understand that there's a quota
 13:22:26 10 set for the first six months?
 13:22:27 11 A. That's right.
 13:22:28 12 Q. And then a quota for the next six months?
 13:22:30 13 A. That's right.
 13:22:32 14 Q. And is it correct that you dictate those
 13:22:35 15 quotas to the, is it divisional director? No,
 13:22:41 16 the --
 13:22:41 17 A. No -- I'm sorry.
 13:22:43 18 Q. People like Brian Booth, what are they
 13:22:45 19 called?
 13:22:45 20 A. Yeah, my -- my national sales office
 13:22:49 21 director. I -- I -- what I do is, yes, I -- I -- I
 13:22:52 22 dictate an office quota, an overall office quota,
 13:22:57 23 and then how the director breaks it down
 13:22:59 24 individually I have -- I have nothing to do with

13:23:01 1 that.
 13:23:01 2 Q. Okay. Are you suggesting that other than
 13:23:04 3 the -- these two quotas, these two 6-month quotas --
 13:23:09 4 A. Yes.
 13:23:09 5 Q. -- that there might have been some other
 13:23:11 6 quota adjustment for Molly Crompton?
 13:23:12 7 A. There could have been. If she -- the --
 13:23:15 8 normally we would not ever make any adjustments to
 13:23:18 9 quota during the six-month period, but obviously
 13:23:21 10 this was a once-in-a-lifetime, hopefully, you know,
 13:23:27 11 reduction that took place, and therefore based on
 13:23:30 12 people getting accounts and possibly getting
 13:23:33 13 tentative business, as I earlier said, the windfall,
 13:23:36 14 I wanted to make sure we adjusted the quotas to
 13:23:42 15 reflect those tentatives that are coming their way.
 13:23:44 16 So I believe -- I believe that there was an
 13:23:46 17 adjustment made.
 13:23:47 18 Q. Isn't it correct that after
 13:23:50 19 September 11th, 2001 there were no quota adjustments
 13:23:55 20 made?
 13:23:55 21 A. There were no quota adjustments made
 13:23:58 22 because of the disaster that occurred. However,
 13:24:02 23 going back to my statement, if -- if somebody
 13:24:06 24 received a tentative piece of business from one of

13:24:08 1 the positions that was reduced and that piece of
 13:24:11 2 business had an opportunity to turn before the 31st,
 13:24:15 3 there were quota adjustments.
 13:24:16 4 Q. So after the events of September 11th
 13:24:26 5 there were no adjustments to anyone's quota
 13:24:31 6 downward?
 13:24:31 7 A. No, there weren't.
 13:24:32 8 Q. The only thing you did was adjust quotas
 13:24:35 9 upward?
 13:24:36 10 A. Well, I didn't, but possibly the directors
 13:24:39 11 did, yes.
 13:24:41 12 Q. Okay. Okay. Can you tell me how long
 13:25:10 13 you've lived at your current address.
 13:25:11 14 A. I've lived there since 1995.
 13:25:13 15 Q. And who else resides there?
 13:25:17 16 A. My wife and my two daughters.
 13:25:19 17 Q. Okay. What is your date of birth?
 13:25:22 18 A. 9/23/61.
 13:25:24 19 Q. And what's your Social Security number?
 13:25:29 20 A. 144-52-7671.
 13:25:30 21 Q. And you're a U.S. citizen, right?
 13:25:38 22 A. That's correct.
 13:25:38 23 Q. What year did you graduate high school?
 13:25:41 24 A. 1979.

13:25:42 1 Q. Did you attend college?
 13:25:45 2 A. Yes, I did.
 13:25:47 3 Q. And did you graduate?
 13:25:48 4 A. I did. 1983.
 13:25:51 5 Q. What college did you attend?
 13:25:53 6 A. Lynchburg College in Lynchburg, Virginia.
 13:25:54 7 Q. Okay. What was your major?
 13:25:59 8 A. Business.
 13:25:59 9 Q. Did you receive a BS degree?
 13:26:05 10 A. That's correct.
 13:26:06 11 Q. Okay. Have you had any other degrees
 13:26:11 12 besides that?
 13:26:12 13 A. No, I have not.
 13:26:13 14 Q. Do you have any postcollege education?
 13:26:15 15 A. No, I do not.
 13:26:17 16 Q. Did you receive any specialized training
 13:26:23 17 that you can recall?
 13:26:24 18 A. No.
 13:26:24 19 Q. Okay.
 13:26:24 20 MS. GALLION: I want to object to the
 13:26:28 21 vagueness of that question and the vagueness of
 13:26:30 22 the term "specialized training," but apparently
 13:26:33 23 the witness understood and he's answered.
 13:26:34 24 Q. Do you hold any licenses?

13:26:36 1 A. Like can you explain further?
 13:26:41 2 Q. Well, insurance licenses, sales type of
 13:26:45 3 license or any kind of a license issued by the
 13:26:47 4 government.
 13:26:47 5 A. No.
 13:26:48 6 Q. Have you had any seminars or courses in
 13:26:53 7 your field?
 13:26:53 8 A. Yes. Yes.
 13:26:57 9 Q. Can you tell me what those were?
 13:26:58 10 A. Seminars like sales training classes?
 13:27:01 11 Q. Yes.
 13:27:02 12 A. Yeah. I've gone through a number of PSS,
 13:27:06 13 PSN classes, leadership classes, Upward Bound
 13:27:10 14 classes, all sales development courses that I took
 13:27:14 15 either in Sheraton or in Hyatt.
 13:27:18 16 Q. Okay.
 13:27:18 17 A. I've certainly gone to human resource-held
 13:27:22 18 seminars for further education within the company.
 13:27:24 19 Q. All right. Have you ever been arrested?
 13:27:28 20 A. No, I have not.
 13:27:29 21 Q. Have you ever been involved in a lawsuit?
 13:27:32 22 A. No, I have not.
 13:27:33 23 Q. Have you ever been disciplined by any
 13:27:37 24 governmental authority?

13:32:22 1 else.
 13:32:22 2 Q. Okay. You feel that you perform your job
 13:32:27 3 competently, don't you?
 13:32:28 4 A. My current job?
 13:32:29 5 Q. Yeah.
 13:32:30 6 A. Yes, I do.
 13:32:31 7 Q. Are you careful to make a record of your
 13:32:34 8 meetings that you attend?
 13:32:36 9 A. No, I'm not.
 13:32:37 10 Q. You never make a record of meetings you go
 13:32:39 11 to?
 13:32:41 12 MS. GALLION: Objection. That's contrary
 13:32:44 13 to the witness's testimony.
 13:32:45 14 You may answer.
 13:32:46 15 Q. Do you ever make a record of meetings you
 13:32:49 16 attend?
 13:32:49 17 A. I -- the way -- the way I work is that --
 13:32:54 18 is that I work via electronic Palm. And my Palm
 13:32:59 19 pretty much sits on my assistant's desk. And so I
 13:33:03 20 travel 150 to 200 days a year. And so if I have a
 13:33:06 21 meeting, it's -- it's entered into the Palm via her.
 13:33:11 22 Q. Is it downloaded into your computer then?
 13:33:14 23 A. No, it's not.
 13:33:16 24 Q. Do you keep any written diary or -- or

13:33:20 1 calendar?
 13:33:20 2 A. No, I don't.
 13:33:21 3 Q. Do you try to record the substance of
 13:33:26 4 meetings and conversations you have with your
 13:33:30 5 superiors?
 13:33:30 6 A. No, I don't.
 13:33:31 7 Q. Is national sales manager the correct
 13:33:47 8 description for people who held jobs like Mrs.
 13:33:51 9 Hildebrandt's?
 13:33:52 10 A. Well, she would be considered a director
 13:33:55 11 of national accounts.
 13:33:56 12 Q. Director of national accounts?
 13:33:58 13 A. That's right.
 13:33:58 14 Q. Okay. That's a management position, isn't
 13:34:00 15 it?
 13:34:00 16 A. Yes, it is.
 13:34:01 17 Q. Are there different types of directors of
 13:34:06 18 national accounts or are they all the same?
 13:34:08 19 A. They're -- they're all the same. There's
 13:34:13 20 an additional position called national account
 13:34:14 21 manager.
 13:34:14 22 Q. What is that?
 13:34:17 23 A. It really -- it really is the same
 13:34:21 24 position, but we give a director's title.

13:34:27 1 There's -- there's -- there's an additional benefit
 13:34:28 2 with being a director.
 13:34:30 3 Q. Director is a more prestigious position,
 13:34:34 4 is that right, or --
 13:34:35 5 A. I -- I think it's a more prestigious
 13:34:38 6 title. I don't know about position. I think what
 13:34:40 7 the national account manager does and what a
 13:34:41 8 director of national accounts does is very similar,
 13:34:44 9 but there's an additional benefit that comes with
 13:34:46 10 the director's title.
 13:34:48 11 Q. What is that?
 13:34:49 12 A. That's participating in the matched
 13:34:53 13 savings program.
 13:34:55 14 Q. Okay. Are all of the people that we've
 13:34:57 15 discussed today, the people that you graded A, B and
 13:35:02 16 C, are they all directors of national accounts?
 13:35:05 17 A. No, they're not.
 13:35:05 18 Q. Some of them are national account
 13:35:08 19 managers?
 13:35:08 20 A. That's right.
 13:35:09 21 Q. Can you recall which ones are, without
 13:35:14 22 reviewing the exhibits, or would you like me to get
 13:35:17 23 the exhibit out?
 13:35:21 24 A. I think I -- don't I have them right here?

13:35:24 1 Q. They're marked 38 with a subletter. Can
 13:35:29 2 you just tell me the ones who are national account
 13:35:32 3 managers?
 13:35:32 4 A. Faye Memoli. I would -- I don't have the
 13:36:02 5 Omaha exhibit in front of me. Because that would --
 13:36:06 6 that would help. I also don't have Chicago in front
 13:36:11 7 of me.
 13:36:11 8 MS. GALLION: Does this help?
 13:36:22 9 MR. STEINBERG: I don't know. You -- the
 13:36:23 10 witness could tell you if it would help.
 13:36:27 11 But I'll get you Omaha.
 13:36:28 12 THE WITNESS: Oh, here. You know, that --
 13:36:32 13 that -- that makes a difference.
 13:36:33 14 A. In Omaha we have Tina Nebuloni is a
 13:36:38 15 national account manager. Erin Moriarty is a
 13:36:42 16 national account manager. Rose Castin (phonetic) is
 13:36:46 17 a national account manager. Jennifer Uhlig is a
 13:36:59 18 national account manager. I believe that covers it.
 13:37:18 19 Q. What about in the central region? Is
 13:37:21 20 there --
 13:37:21 21 A. There -- there is nobody that's a --
 13:37:24 22 there's no one that's national account manager.
 13:37:26 23 Q. Okay. Did you consider the western
 13:37:31 24 office?

13:37:31 1 A. I believe I did.
 13:37:32 2 Q. Here's the document, if this will help
 13:37:38 3 you.
 13:37:39 4 A. No, Donner -- Donna Palmer was until
 13:37:51 5 March 15th, three days ago. She was just promoted
 13:37:54 6 to director of national accounts. So everybody else
 13:37:57 7 is a director on that page.
 13:37:59 8 Q. Who decides whether a person is a director
 13:38:06 9 of national accounts or a national accounts manager?
 13:38:08 10 A. The process would be that the -- come
 13:38:12 11 budget time every fall, the director of the office
 13:38:14 12 would put in a recommendation for somebody to get a
 13:38:18 13 title change. And it would be reviewed by myself,
 13:38:22 14 it's reviewed by Ty, and then it would be reviewed
 13:38:27 15 by the accounting folks in our -- Frank Borg or --
 13:38:33 16 or Rhonda Saleh and -- and human resources as well,
 13:38:37 17 and they would make a determination whether we could
 13:38:39 18 get it through the budget.
 13:38:42 19 Q. Well, some people start out, though, as
 13:38:44 20 director of national accounts, don't they?
 13:38:46 21 A. Yes, they do.
 13:38:47 22 Q. Who decides whether a person would start
 13:38:49 23 in that title or a national account manager title?
 13:38:51 24 A. The person that's hiring them.

13:38:55 1 Q. Okay. Is there a different pay rate for
 13:38:59 2 the two positions we talked about?
 13:39:00 3 A. There is.
 13:39:01 4 Q. Can you tell me what the difference is?
 13:39:03 5 A. I can't. I -- I just -- I don't know.
 13:39:06 6 Q. Is there a pay --
 13:39:07 7 A. I'd have to --
 13:39:08 8 Q. I'm sorry.
 13:39:09 9 A. I'd have to defer to human resources for
 13:39:12 10 that information.
 13:39:13 11 Q. Is there a pay range within each of these
 13:39:16 12 positions?
 13:39:16 13 A. There is.
 13:39:17 14 Q. And do you know what that is?
 13:39:18 15 A. No, I don't.
 13:39:19 16 Q. Okay. Who determines what a director of
 13:39:27 17 national accounts is paid?
 13:39:27 18 A. Who determines?
 13:39:31 19 Q. Em-hmm.
 13:39:32 20 A. The person hiring that person.
 13:39:36 21 Q. In -- in some cases is that yourself?
 13:39:47 22 A. Sure. Absolutely.
 13:39:47 23 Q. Okay.
 13:39:47 24 A. I would -- I would -- I would always have

13:39:47 1 input.
 13:39:47 2 Q. Okay.
 13:39:47 3 A. Because I have to sign the status change
 13:39:47 4 that eventually gets this person hired, so I have to
 13:39:48 5 approve it.
 13:39:48 6 Q. So the people we talked about that were
 13:39:50 7 hired in 2001 you had input as to what each of them
 13:39:54 8 was paid?
 13:39:55 9 A. Either I had input or I just approved what
 13:39:57 10 that director recommended.
 13:39:58 11 Q. Okay. You -- was your first year '99; is
 13:40:11 12 that right?
 13:40:11 13 A. That's right.
 13:40:12 14 Q. Do you know how many directors of national
 13:40:18 15 accounts and national account managers there were
 13:40:23 16 total?
 13:40:23 17 A. I have no idea.
 13:40:23 18 Q. How about for 2000?
 13:40:27 19 A. I have no idea.
 13:40:27 20 Q. 2001?
 13:40:28 21 A. I have no idea. I've never done that
 13:40:32 22 analysis.
 13:40:32 23 Q. Do you know if there are any less now than
 13:40:36 24 there were at the beginning of 2001?

13:40:39 1 A. Less directors?
 13:40:40 2 Q. Directors and national account managers
 13:40:43 3 taken together.
 13:40:43 4 A. Yeah, there's -- unfortunately there's ten
 13:40:50 5 less.
 13:40:50 6 Q. Are you -- you hired some and some were
 13:40:53 7 terminated. You do think there are ten less than
 13:40:56 8 there were at the beginning of the year?
 13:40:57 9 A. Yes, that's -- that's -- that's an
 13:41:00 10 accurate answer.
 13:41:00 11 Q. Okay. What is the next step up the ladder
 13:41:13 12 for a director of national accounts?
 13:41:16 13 A. That's -- that's a very good question.
 13:41:22 14 They can -- they could go back on property as a
 13:41:25 15 director of sales. Conceivably they could -- they
 13:41:30 16 could take my job, my position. Conceivably they
 13:41:34 17 could be considered for a divisional director of
 13:41:37 18 sales.
 13:41:37 19 Q. Aren't there positions between yours and
 13:41:40 20 theirs?
 13:41:40 21 A. Between a director of a -- a national
 13:41:46 22 accounts?
 13:41:46 23 Q. Director of national accounts. That's --
 13:41:48 24 A. Oh, I --

13:46:13 1 Q. Okay. Do you know how Mr. Booth arrived
 13:46:26 2 at reducing it?
 13:46:27 3 A. No, I don't.
 13:46:28 4 Q. Were you aware that Mrs. Hildebrandt was
 13:46:52 5 given a midyear review?
 13:46:52 6 A. Yes, I was.
 13:46:52 7 Q. Can you tell me what you know about the
 13:46:52 8 midyear reviews?
 13:46:53 9 A. Yes. Brian came to me and -- let me --
 13:46:59 10 let me back up for one moment here. We -- we
 13:47:02 11 decided among the directors and myself that we were
 13:47:05 12 going to create a new review for the managers and --
 13:47:09 13 and the directors, a review that I felt was more
 13:47:13 14 well balanced in all areas and not just based on
 13:47:16 15 quota achievement.
 13:47:18 16 And Brian and -- and Gus Vonderheide
 13:47:20 17 worked on creating that review, which we put into
 13:47:24 18 place this year, or this year for the review for
 13:47:28 19 last year.
 13:47:29 20 And then Brian told me that, as being new
 13:47:33 21 to the office, one of the -- one of the ways he
 13:47:36 22 could reach out and get in touch with his managers
 13:47:36 23 since he was a new director was he felt that he
 13:47:41 24 should do a midyear review.

13:47:43 1 And I said, that's fine. That's a great
 13:47:45 2 idea. What a better way to -- for you to know their
 13:47:48 3 expectations and for them to know your expectations.
 13:47:51 4 So I -- I endorsed that.
 13:47:52 5 Q. Do you know for whom he did a midyear
 13:47:55 6 review?
 13:47:55 7 A. My understanding was that he did it for
 13:47:58 8 his complete office, all his managers.
 13:47:59 9 Q. Did you receive the results of it?
 13:48:04 10 A. No, I did not.
 13:48:06 11 Q. We talked earlier about the term "SOHO."
 13:48:31 12 A. Yes.
 13:48:33 13 Q. I just wanted to review with you who the
 13:48:38 14 people are that operate from a SOHO after
 13:48:45 15 October 1st, 2001. I think I have these names, and
 13:48:50 16 you can check whatever document you need, but is
 13:48:53 17 Trina London such a person?
 13:48:55 18 A. She is.
 13:48:56 19 Q. Melissa Daniels?
 13:49:00 20 A. She is.
 13:49:01 21 Q. Barb Hale?
 13:49:02 22 A. She was.
 13:49:02 23 Q. Okay. Jan Bansfield?
 13:49:08 24 A. She is.

13:49:10 1 Q. Michelle Bondanelli?
 13:49:12 2 A. She is.
 13:49:14 3 Q. Marilyn Brumbaugh?
 13:49:16 4 A. She is.
 13:49:17 5 Q. Kathy Murphy?
 13:49:18 6 A. She is.
 13:49:19 7 Q. Michelle Nicoletti?
 13:49:20 8 A. She is.
 13:49:22 9 Q. Diane Smith?
 13:49:23 10 A. She is.
 13:49:24 11 Q. Bonnie Weiss?
 13:49:24 12 A. She is.
 13:49:26 13 Q. Harumi Yoshiike?
 13:49:30 14 A. No, she's based out of the Hyatt -- oh,
 13:49:35 15 I'm sorry, she's a hotel. Sometimes I get confused
 13:49:38 16 with the home office. She is a -- she is a
 13:49:40 17 satellite office, yes.
 13:49:41 18 Q. Okay. Well, I'm not --
 13:49:41 19 MS. GALLION: Let me just clarify one
 13:49:43 20 thing, because I think we're confused. Is this
 13:49:45 21 about people with SOHO -- with home offices or
 13:49:47 22 people working out of hotels?
 13:49:48 23 A. Because, yeah, they're -- they're two
 13:49:52 24 different things, but...

13:49:52 1 Q. I understand.
 13:49:53 2 A. Okay.
 13:49:53 3 Q. I -- I'm only asking you about the SOHO.
 13:49:55 4 MS. GALLION: But a SOHO is both.
 13:49:57 5 A. But a SOHO is -- is -- can be a
 13:49:59 6 satellite -- well, technically not. We have satel--
 13:50:02 7 Q. I'm not -- I'm not including hotels.
 13:50:05 8 A. Okay. Harumi is in a hotel.
 13:50:08 9 Q. Is there anyone else that you know of that
 13:50:11 10 was in a SOHO after October 1, 2001?
 13:50:15 11 MS. GALLION: I'm going to object to that
 13:50:18 12 nomenclature, because a SOHO is a satellite
 13:50:21 13 office which could be a hotel/home office.
 13:50:23 14 MR. STEINBERG: I'm going to request, if
 13:50:25 15 you're going to testify, that you be sworn in.
 13:50:27 16 MS. GALLION: I'm not testifying; I'm
 13:50:29 17 objecting to the question.
 13:50:29 18 MR. STEINBERG: I'm objecting to your
 13:50:31 19 inserting alleged evidence into the record.
 13:50:34 20 Mr. Horne is perfectly capable of knowing what
 13:50:35 21 a SOHO is.
 13:50:35 22 MS. GALLION: Mr. Horne is doing a
 13:50:37 23 wonderful job of testifying and doesn't need my
 13:50:39 24 assistance, but -- I don't want a record that